



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

January 2, 2018

Rayfield Dobbins
PLD Group
PO Box 5353
Augusta, ME 04330

RE: **Unresolved Consent Agreement**

Dear Mr. Dobbins,

I have attempted to resolve a consent agreement with you involving unlicensed commercial pesticide applications made by your company. Although you have agreed to sign the consent agreement and the related compliance verification statement, and send these in to our office along with the penalty payment, you have failed to do so.

Consequently, our office has elected to present the matter to our Board for review at their meeting scheduled for 9 AM on December 8, 2017. The meeting is set for room 118 in the Marquardt Building, on the AMHI Complex. Driving directions are enclosed.

Our intention is to present information that is both accurate and unbiased. For this reason, we request that you review the enclosed case investigation summary and notify us prior to November 27, 2017, if there are any errors or if you have additional information which you feel is pertinent to the case.

We encourage you to attend this meeting and speak on your behalf if you wish. You should understand that this will not constitute a formal hearing; however, the Board will likely determine how to proceed to resolve this case. You may have an attorney present if you so desire.

We will forward a copy of the agenda to you approximately one week prior to the meeting. If you have any questions, please do not hesitate to contact me at 287-2731.

Sincerely,

Raymond Connors
Manager of Compliance
Maine Board of Pesticides Control

Enclosure (7)

CASE INVESTIGATION SUMMARY

Company: PLD Group (Rayfield Dobbins) **License:** None

Origin of Case: Numerous complaints received by the Board

Dates of Incident: Mid -August 2012; August 6, 2016 multiple sites; August 11, 2016, multiple sites; November 7, 2017, complaint that pesticide applications made to their rented apartment unit on three separate occasions.

Pesticide(s) Involved: HotShot Bed Bug and Flea Fogger, an unknown insecticide applied with a pressurized hand can inside apartments and to the exterior of an apartment building.

Summary of Allegation(s): The Board has received complaints about this company making unlicensed pesticide applications to apartment units they own or manage. These complaints date back to 2012. Inspectors have followed up with the company owner and his employee on multiple occasions. The owner and his employee have always denied making any pesticide applications to apartment units or exterior applications to apartment buildings.

Staff Action: Inspectors have followed up on complaints and interviewed tenants who have filed complaints about PLD pesticide applications to their rental units as well as tenants in the same apartment buildings as the callers. Inspectors also interviewed both the company owner and his employee.

Staff Findings: Inspectors have documented that this company has made numerous unlicensed commercial pesticide applications to tenant apartments.

Attachment(s):

- Consent agreement for PLD Group

Applicable Citations of Law:

22 M.R.S. 1471-D(1)(A) No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

CMR 01-026 Chapter 31 Section 1(A)III.

1. Individual Certification and Company/Agency Licensing Requirements

A. Any commercial applicator must be either:

I. licensed as a commercial applicator/master; or

II. licensed as a commercial applicator/operator; or

III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual

observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator.

Staff Recommendation(s): A consent agreement was mailed to Dobbins on July 7, 2017. Staff called Dobbins on August 22, 2017, to discuss resolution to the consent agreement and pay the penalty within two weeks. On September 1, 2017, staff called Dobbins about the consent agreement. Dobbins said he mailed it initially saying it was sent “last Friday” and then revising it to “this Monday”. If we do not receive it, he said he would come in and sign the consent agreement and pay it too.

September 7, 2017, staff called Dobbins informing him we received the signed consent agreement but no penalty payment. Dobbins said he would have to pay it in a couple of weeks. Staff informed Dobbins that if payment was not received the case would be sent to the AG’s office for resolution.

Since the staff has been unable to reach a settlement, it recommends referring the case to the Office of the Attorney General.

**STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY
BOARD OF PESTICIDES CONTROL**

PLD Groups Inc.)	
PO Box 5353)	ADMINISTRATIVE CONSENT AGREEMENT
Augusta, Maine 04330)	AND
)	FINDINGS OF FACT

This Agreement, by and between PLD Groups Inc. (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company provides property management and property maintenance services in Augusta and surrounding areas.
2. That on September 28, 2012, the Board received a complaint alleging that Rayfield Dobbins had been making unlicensed pesticide applications in apartments at 132 Northern Avenue in Augusta to control bedbugs.
3. That on October 1, 2012, a Board Inspector met with Rayfield Dobbins the owner of the Company and conducted an inspection based on the allegations described in paragraph two.
4. That during the inspection described in paragraph three, Dobbins showed the inspector a hand pressurized sprayer that Dobbins stated he used in mid-August to spot spray all apartments at 132 Northern Avenue except units 11 and 12. Dobbins told the inspector he sprayed water in the apartments, but told the tenants it was chemical pesticide to pacify them about their bed bug complaints.
5. That on August 16, 2016, the Board received a second complaint against the Company involving a six unit apartment building the Company manages at 51 Eastern Avenue in Augusta. Norma Duterre, a tenant, stated that Peter Alexander, an employee of the Company set off two cans of insect bombs in her bed room to control bed bugs on August 6 and advised her to wait 2 hours and ventilate the room. The tenant said that on August 11, at approximately 3 PM Alexander set off another insect can bomb in the same bed room and gave her 2 insect can bombs. Duterre set one can off later the same day at approximately 10 PM. and sealed the room. On August 12, about noon time Duterre set off the last insect bomb in the same room and again sealed the room.
6. That in response to the complaint received in paragraph five, the inspector called the Company and spoke with Dobbins on August 17, 2016. The inspector asked Dobbins if Alexander made any pesticide applications to apartments in any of the Company's rental buildings. Dobbins told the inspector Alexander inspects for pests for the Company, but the Company hires Bug Busterzzz when treatments are needed. Dobbins provided the inspector with Alexander's contact information.
7. That later the same day, a Board inspector met with Alexander. Alexander had cans of HotShot Bedbug & Flea Fogger in his truck. Alexander stated he did not make applications for tenants but used the cans for his own personal periodic preventative use because he was often in apartments that were infested with bedbugs. The inspector asked Alexander if he made applications to Duterre's apartment. Alexander said he did not, but that he gave Duterre 2 cans of HotShot Bedbug & Flea Fogger and told her how to use them.

8. That on August 24, 2016, a Board inspector met with Duterre at her apartment. Duterre told the inspector that the Company hired Bug Busterzzz to treat her apartment once and then Peter Alexander set off two cans of HotShot Bedbug & Flea Foggers in her bedroom on August 6, 2016, and then Alexander came back and set off one more can of HotShot Bedbug & Flea Fogger on August 11, 2016, in the same bedroom. Duterre said she still had bedbugs in that bedroom and set off one can of HotShot Bedbug & Flea Fogger herself on August 12, 2016. The bedroom door was closed and sealed with plastic and tape when the inspector arrived. Duterre opened the room to retrieve the can of HotShot Bedbug & Flea Fogger. The inspector took photos of the can to document it.
9. That while at the apartment building described in paragraph five, the inspector talked to other tenants in two separate apartments. One of those tenants stated that Alexander set off one can of HotShot Bedbug & Flea Fogger in her bedroom on August 6, 2016. The second tenant said they had bed bugs but Alexander sprayed in the apartment twice and they have not had any problems since then.
10. That on November 7, 2016, the Board received an additional complaint from a Winthrop tenant. The tenant alleged Company employees applied insecticides to her apartment to control bedbugs.
11. That in response to the complaint in paragraph ten, an inspector conducted a follow up inspection with the Winthrop tenant. From that inspection the inspector determined that both Alexander and a Company employee named Randy, made pesticide applications to the interior of Company tenants' apartments.
12. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S. § 1471-C(5-A), must be a certified commercial applicator or under the direct supervision of a certified applicator in accordance with 22 M.R.S. 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A)III.
13. That a custom application is defined in 22 M.R.S. § 1471-C(5-A) includes any application of any pesticide under contract or for which compensation is received or any application of a pesticide to a property open to use by the public.
14. That the circumstances described in paragraphs one through thirteen constitute custom applications of pesticides in accordance with 22 M.R.S. § 1471-C(5-A).
15. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time of the applications described in paragraphs eight, nine, and eleven.
16. That the circumstances described in paragraphs one through fifteen constitute multiple violations of 22 M.R.S. 1471-D(1)(A) and CMR 01-026 Chapter 31 Section 1(A)III.
17. That the Board has regulatory authority over the activities described herein.
18. That the Company expressly waives:
 - a. Notice of or opportunity for hearing;
 - b. Any and all further procedural steps before the Board; and
 - c. The making of any further findings of fact before the Board.
19. That this Agreement shall not become effective unless and until the Board accepts it.

20. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraph sixteen, the Company agrees to pay to the State of Maine the sum of \$1,500. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of three pages.

PLD GROUPS INC

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Cam Lay, Director

APPROVED

By: _____ Date: _____

Mark Randlett, Assistant Attorney General