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10:02 am, Apr 22, 2009

Alameda County
Environmental Health

KEI
KAPREALIAN ENGINEERING
INCORPORATED

RECEIVED

JUN 30 1993

DATE: June 25, 1993
TO: Ed Ralston, Unocal Corporation
FROM: Aram Kaloustian, Kaprealian Engineering, Inc.
SUBJECT: Unocal Service Station #0746, 3943 Broadway, Oakland, CA

Enclosed please find the information that KEI was able to obtain regarding the dry cleaning establishment (The Glovatorium) located in the vicinity of the above referenced site.

I think this will make for some very interesting reading. I will contact you on Tuesday, July 6, 1993, to confirm and prepare for our meeting in Oakland on July 7, 1993.

If you have any questions, please call.

COPY OF DIPOSITION AND CRIMINAL CHARGES
AGAINST GLOVATORIUM, LOCATED DOWNGRAIENT
FROM SS # 0746. OWNERS HAVE BEEN
TRYING TO PULL UNOCAL INTO THIS CASE

FILE #	0746	SS	<input checked="" type="checkbox"/>	BP	<input type="checkbox"/>
RPT	<input type="checkbox"/>	QM	<input type="checkbox"/>	TRANSMITTAL	<input type="checkbox"/>
1	<input type="checkbox"/>	2	<input type="checkbox"/>	3	<input checked="" type="checkbox"/>
4	<input type="checkbox"/>	5	<input type="checkbox"/>	6	<input type="checkbox"/>

**DECLARATION IN SUPPORT OF ARREST
AND/OR ISSUANCE OF WARRANT OF ARREST**

The undersigned hereby declares, upon information and belief:

That he is a Sergeant of Police of the Oakland Police Department, Oakland, California.

That a complaint charging Stuart Depper, Defendant with the crimes of

25189.5(b)H&S (4 counts), 25189.5(c)H&S (1 count),
13387(c)WC (2 counts), 25189.5(d)H&S (1 count), 25190H&S (3
counts) and 42400H&S (5 counts)

has been issued and is filed herewith the Clerk of the Court.

That said Defendant committed said offenses in the manner and by the means set forth and described herein.

I am a Sergeant of Police with the Oakland Police Department. I have been a police officer for the Oakland Police Department for sixteen years. I have been assigned as a detective sergeant in the Criminal Investigation Division of the Oakland Police Department for eight years. During that time I have investigated over 1000 felony crimes including thefts, burglaries, sexual assaults, homicides and environmental crimes. I am currently assigned as the Oakland Police Department's follow-up investigator for hazardous waste and environmental crimes.

I am a graduate of the University of California at Davis with a Bachelor of Science degree in Renewable Natural Resources.

I have received specialized training in the investigation of environmental crimes including a forty hour course in hazardous materials investigations, an eighty hour United States Environmental Protection Agency hazardous waste crimes investigation course, and a course in the proof of hazardous waste crimes from Assistant District Attorney Steve Castleman of the San Francisco County District Attorney's office. Castleman is in charge of environmental prosecutions. I have received over sixty-four hours of health and safety training for hazardous material and hazardous waste workers. I have received ten hours of training in the handling of radiologic incidents. I have received seventy-two hours of instruction through the California Hazardous Materials Investigators' Association.

I have also received on the job training from inspectors and attorneys of the Alameda County District Attorney's Consumer and Environmental Protection Unit. I have also received training from members of the Hazardous Materials Division of the Alameda County Health Department.

I am certified by the California Office of Emergency Services as an instructor in hazardous materials and hazardous wastes. I provide instruction in those areas to members of the Oakland Police Department and other local police agencies. I have provided instruction in the investigation of hazardous materials crimes to the waste water staff of the East Bay Municipal Utility District. I am the hazardous materials instructor in Critical Incident Management for police supervisors and commanders for the Santa Rosa Regional Training Center and for the Los Medanos College Regional Criminal Justice Training Center. I have provided hazardous materials first responder training to the Richmond Police Department under the auspices of Los Medanos College. I have also instructed other police supervisors and commanders and police dispatchers in the handling of hazardous materials incidents.

I am an active member and former board of directors member of the California Hazardous Materials Investigators' Association.

On August 9, 1990 I received information from Inspector Richard Terry of the Contra Costa District Attorney's Office about possible illegal disposal of hazardous wastes in Orinda and Oakland involving The Glovatorium. Nicholas EVANS had contacted the Department of Health Services on May 14, 1990 at their "Toxic Tips Line" stating that Bob DEPPER of The Glovatorium had "dumped perk dry cleaning solvent onto the ground at his home". EVANS also alleged that DEPPER was regularly disposing of waste contaminated water into the sewer drain. TERRY sent me a facsimile copy of the DOHS Complaint Report Form. I have since learned that The Glovatorium is a dry cleaner located at 3815 Broadway, Oakland, California.

Investigation has revealed that Robert Depper is the owner of the property at 3815 Broadway and the underground tanks beneath that property. According to a fictitious business name statement filed by Robert Depper, he is the owner of The Glovatorium. Stuart Depper is the general manager of The Glovatorium. This was established both by his business card which identifies him as the general manager as well as by an October 16, 1992 interview in which he told inspector Donald Harris of the Alameda County District Attorney's Office that he has been the manager of The Glovatorium for about five years.

I contacted Nicholas EVANS at his work address on September 19, 1990 after an extended attempt to locate him. Mr. EVANS gave me detailed information about the disposal of contaminated soil in Orinda and the routine dumping of dry cleaning solvents to drains within The Glovatorium facility at 3815 Broadway. EVANS told me that he had worked for The Glovatorium as a maintenance person for about seven months and had been fired from there approximately seven months previous to our conversation. He said that about one month before he got fired, he, "Andrew" and Robert DEPPER dumped five (5) barrels of soil that he believed to be saturated with solvent onto the ground in the back yard of Robert

DEPPER's home at 31 Muth Drive, Orinda. EVANS told me that the contents of the drum were soil that he had dug from the ground inside The Glovatorium dry cleaning room. EVANS did this work at the direction of Bob DEPPER. DEPPER told him that the city was requiring them to dig out the contaminated dirt and replace it with concrete. They planned to dig to clean dirt and actually remove an underground tank that was under the room. He dug out an area approximately eight (8) feet square and three feet deep. He said that they never got to uncontaminated soil and finally gave up on digging it out. When the dirt was removed, EVANS placed it into approximately fifteen (15) drums. They put the drums into the drying room where fur coats are dried in an attempt to cause the solvent to evaporate from the soil. When this was unsuccessful, Robert DEPPER had EVANS and "Andrew" bring the first of the drums to his home. They transported the drums using the company old, white, utility truck that is normally garaged in the rear of the plant. EVANS said that he advised DEPPER against bringing any more drums out as the solvent smell was so strong that the neighbors would very likely smell it. After they dumped the contents of the drums onto the ground, EVANS and "Andrew" returned the empty drums to The Glovatorium. EVANS said that when he was fired the remaining drums that contained soil were still in the drying room and, as far as he knew, still were.

EVANS told me about the regular releases to the drains within the facility. Due to the condition of the equipment, it can only be operated on a manual basis and this results in frequent spills of solvent onto the ground in the dry cleaning room. When the solvent flows onto the floor, the employees use customers' leather and fur clothing to absorb solvent and a large amount is regularly allowed to empty into the drains which are in the floor. EVANS did not know if the drains were connected to the storm or sanitary system. He said that these releases to the drains occurred at least once a month. I asked EVANS if the management of the plant was aware of this and he said that he had been present when Robert, Stuart and Eric DEPPER had each seen the solvent enter the drains.

EVANS said that Eric and Stuart DEPPER each told him about an "underground creek" that runs under The Glovatorium plant. They said that there is an underground tank under the hallway next to the dry cleaning room. They said that this tank fills with water from the creek and needs to be pumped out every other day. It was EVANS' job to turn on the sump pump that is permanently installed inside this tank and pump the water into a drum. The solvent that floats on top of the drum was then skimmed off and returned to the process. The remaining water was then poured into a floor drain within the plant. EVANS described the water that he poured back into the drain as black, oily and very foul smelling. EVANS was instructed to do this by both Stuart and Eric DEPPER and has overheard Robert DEPPER discussing this process with Stuart and Eric.

EVANS said that filter powder from the dry cleaning process is placed into the commercial garbage dumpster that is regularly collected by the garbage company. He said that he has seen as many as three (3) barrels dumped in there at one time. He knows that the filter powder is from the process but does not know what is in it at the time that it is thrown away. I know from information supplied by an Alameda County Health Representative that this powder is very likely to contain significant amounts of solvent.

EVANS was willing to be identified and states that he is willing to be a witness in any trial subsequent to this investigation.

On September 25, 1990 I contacted Andrew WILSON at his home. I took a tape recorded statement from WILSON in which he told me that he is a former employee of Adept, which is a subsidiary of The Glovatorium. He worked for Adept for approximately seventeen (17) months. During the time that he worked for Adept, he would be assigned to do maintenance at The Glovatorium during periods of slow work. He was laid off due to lack of work. He said that he was instructed in March or April, 1990 by Stuart DEPPER to dig out an area under the dry cleaning room at The Glovatorium. He said that he dug out an area under the dry cleaning room floor. He put the dirt that he dug out into approximately fifteen (15) barrels. He described the dirt as saturated with solvent. He based this opinion on the color and smell of the dirt and the fact that the solvent actually ran out of the dirt. He put the barrels into the drying room under the direction of Stuart DEPPER in an effort to dry out the dirt. He and Nicholas EVANS took four (4) drums out to Robert DEPPER's home in Orinda in February and dumped them onto the ground. They did not cover the dirt that they dumped with other dirt. This was done under the direct supervision of Robert DEPPER. They drove the company truck and followed Robert DEPPER (who drove his car) to DEPPER's home.

WILSON also described being directed by Eric DEPPER in July, 1990 to dump three large bags of asbestos into the dumpster at The Glovatorium. He described dumping filter cartridges into the dumpster. He also described placing the dirt that has had its solvent extracted being dumped into that dumpster. He also said that loads of trash have been rejected by the local garbage company for improper materials being inside. He also described the various drivers for The Glovatorium being instructed to haul small amounts of hazardous wastes to their other cleaner facilities for dumping into those dumpsters. I know through training and experience that asbestos, dry cleaning filter cartridges and solvent wastes are hazardous wastes under the California Health and Safety Code.

WILSON also told me that there is a drain under the floor near the dryers and extracting machine. It has a sump pump that permanently sits inside. They periodically pump it out into a barrel. The material that is pumped out appears to contain

solvent. He saw employees pour it into another drain inside the plant in the early part of July, 1990.

WILSON said that whenever there is a spill in the dry cleaning room solvent goes into the floor drains. The operator may put clothing down to sop up the extra solvent but a good deal goes to the drains. This occurs a couple of times a week. He said that Robert, Stuart and Eric DEPPER are aware of these spills and that the spills go to the drains.

WILSON said that he believes that there are seven (7) underground tanks under the plant and another one under the rear sidewalk. He believes based on what the DEPPERS have told him that they are leaking.

On October 9, 1990 I met with Dan JACKSON who is an inspector for the Waste Water Division of the East Bay Municipal Utility District (EBMUD). He told me that he had inspected The Glovatorium on August 6, 1990 and provided me with a copy of that inspection. JACKSON told me that he conducted the inspection with Robert DEPPER observing. Robert DEPPER directed JACKSON to the side sewer connection to the sanitary sewer and stated that it served only his facility. JACKSON took a single sample from that side sewer. He noted a strong solvent odor to the sample. He submitted the sample to the EBMUD waste water laboratory (which is a state certified water, waste water and hazardous waste laboratory). The laboratory results indicated that there were elevated levels of perchloroethylene present. There were also very elevated levels of other volatile organic compounds which JACKSON said are consistent with Stoddard solvent. JACKSON also told me that Robert DEPPER told him that his facility has not used perchloroethylene for the last two years. This is inconsistent with what County Hazardous Material personnel learned from the facility, the laboratory results found, and the waste hauling receipts provided by Technichem.

I obtained and served search warrants for The Glovatorium at 3815 Broadway, Oakland, California and Robert Depper's home at 31 Muth Drive, Orinda, California with the assistance of other law enforcement officers and regulators on October 15, 1990. The warrant service revealed further information. Among items seized during the warrant service were documents and a number of chemical samples.

At the Depper home a pile of soil consistent with that described by Evans and Wilson was found where they said that they had dumped it. Chemical samples were taken from that pile and analyzed. The analysis shows the soil to contain chemicals which are consistent with samples found at The Glovatorium and support the contention that the soil was moved from The Glovatorium to the Depper home.

At The Glovatorium we found material co-mingled with regular trash in the garbage dumpster located inside The Glovatorium.

Laboratory analysis of this material showed it to be extremely high in amounts of perchloroethylene. I know from training and experience and consultation with the Alameda County Hazardous Materials Division that perchloroethylene is a hazardous waste.

Samples were taken from a number of floor drains throughout the facility. Those samples were subsequently analyzed and found to contain very high amounts of dry cleaning solvents, primarily Stoddard solvent. This is consistent with what was found by EBMUD during its sampling of the sewers from the facility on a previous occasion. Dye testing was conducted of these drains that proved that they connect to the EBMUD system.

We located the hole in the ground that was described by Evans and Wilson as the place from which they would regularly pump out a water and solvent mixture. We used the same sump pump that they described to take samples from this structure. The resulting sample appeared to be partially water and partially Stoddard solvent. Laboratory results confirm this.

It was not clear upon inspecting this hole whether it was an opening to the inside of an underground tank or whether it was a monitoring well located next to the tanks. In either case, the presence of solvent and water continually being mixed together would indicate that a tank (or tanks) is (are) seriously breached and allowing solvent to leak to the surrounding ground and ground water. I know through training and experience that this constitutes a continuing disposal of hazardous waste.

We found several drums containing soil similar to that found in Orinda inside the fur drying room described by Evans and Wilson. Samples were taken of this soil and analysis revealed that they contained Stoddard Solvent waste consistent with what was found in Orinda and with what Evans and Wilson said.

Additionally, we found that there were many containers throughout the plant that appeared to contain waste that was unlabeled as to contents or accumulation dates as required by Title 22 of the California Code of Regulations.

In August, 1992 I was contacted by Brit Johnson of the Alameda County Hazardous Materials Division who told me that he had received complaints from neighbors of The Glovatorium about their handling practices regarding machinery. The neighbors complained that old machinery was being stored upon the public sidewalk at the rear of the facility on Manila street. They felt that the machinery posed both a physical threat due to its size, construction and unstable storage as well as a chemical threat due to the possible presence of toxic materials within these machines. I then received telephone calls from some of these neighbors who expressed the same concerns.

On August 11, 1992 Brit Johnson and I went to the rear sidewalk of The Glovatorium and examined the machinery which was stored as

the neighbors stated. We collected what appeared to be perchloroethylene waste from the street as well as from the interior of one of the machines. We noticed that the garbage dumpster was located on the sidewalk. Due to the prior practice of disposing of hazardous waste in the dumpster, we examined it. Upon opening the lid, Johnson smelled the odor of perchloroethylene. We looked through the dumpster and found what appeared to be perchloroethylene waste co-mingled with other regular trash. We sampled this material and the laboratory analysis confirmed it to be perchloroethylene waste.

I applied for and received another search warrant for The Glovatorium. On October 16, 1992 I served this warrant with the assistance of other peace officers and regulators. Samples and documents were again seized.

General facility conditions appeared to be much worse than during the first warrant. There was evidence of improper hazardous waste storage throughout many areas of the plant. There were many piles, bags and open containers of what appeared to be hazardous wastes. The containers were generally not labeled as to contents or accumulation dates. There was no evidence of secondary containment around any of the material believed to be hazardous waste.

Samples were taken from the floor drains. Again, laboratory analysis revealed that they contained very high levels of solvent waste.

It appeared that the underground tank or tanks were still leaking and causing a continuing disposal of hazardous wastes to the environment. This conclusion is based upon the results of analysis of samples taken from underground tanks which show high levels of Stoddard Solvent contaminated with water. Stuart Depper was present during this warrant and stated that the tanks had not been used for a long time and this was confirmed by other employees. Stuart Depper further stated that the tanks had been completely emptied. This clearly was not true.

Other evidence of the continuing leakage of these tanks was found during a sampling of soil from under the concrete floor in the area of the tanks. A sample taken at a depth of six inches below the concrete showed high levels of Stoddard Solvent. A sample taken at a depth of twelve inches showed levels that were several times higher than this. This would tend to indicate a source below the concrete as opposed to one from above.

We found that the same drums containing soil were still stored inside the fur drying room at The Glovatorium. Stuart Depper claimed that he did not do anything to properly dispose of them because I had told him not to at the first warrant service. I never told him that he should not properly dispose of the material in these drums.

Representatives of the Bay Area Air Quality Management District (BAAQMD) who regulate dry cleaners and who have issued a permit to operate to The Glovatorium accompanied us during the service of this warrant. They observed many violations of their rule which requires that solvents and spent solvents be kept in closed containers in order to prevent air releases. They took samples of some of these sources to confirm the violations. They observed many violations of their rule which requires that dry cleaning wastes be kept in sealed containers in order to prevent air releases. They took samples of some of these sources to confirm the violations.

BAAQMD representatives also noted violations of their rules prohibiting operation of dry cleaning equipment which is leaking solvent liquid or vapor. They also noted violations of their rule that requires that the operation of a filtration system must meet the requirements of district rules.

Neither the Robert Depper home nor The Glovatorium are facilities which have permits issued by the Department of Health services pursuant to the provisions of Chapter 6.5 of the Health and Safety Code nor are they points authorized according to the provisions of Chapter 6.5 of the Health and Safety Code.

The results of the warrant service, the statements of some persons interviewed, and an examination of regulatory records support the charges in this case.

Count One--The presence of soil contaminated with the same contaminants found in the solvent saturated soil at The Glovatorium as well as the statements of Evans and Wilson support this charge.

Count Two--The presence of soil contaminated with the same contaminants found in the solvent saturated soil at The Glovatorium as well as the statements of Evans and Wilson support this charge.

Count Three--The presence of this material co-mingled with common garbage inside a dumpster which is to be used only for regular garbage along with laboratory results which confirm this to be perchloroethylene waste support this charge.

Count Four--The presence of high levels of dry cleaning wastes in the samples taken from the drain system along with the following information support this count.

During the time of both warrant services The Glovatorium had a Wastewater Discharge Permit issued by EBMUD. This permit specifically says "THE GLOVATORIUM shall not discharge drycleaning process waste to the sewer". Documents in the possession of EBMUD establish that both Robert and Stuart Depper had been notified of this prohibition. Based on the statements of Evans and Wilson both Robert and Stuart Depper were aware of

repeated discharges of solvents or solvent wastes to the floor drains. Robert Depper told a representative that he was aware that these drains connected to the EBMUD system and that this had been proven during an earlier cleaning of the drains.

I will clarify the specific violation of Section 13387(c) of the California Water Code. Section 13387(c) refers to any person who knowingly commits any of the violations set forth in 13387(a) of the California Water Code.

Section 13387(a)(4) refers to the violation of various sections of the Federal Water Pollution Control Act, as amended, including Section 307 of that Act. Briefly summarized, this refers to the pre-treatment program. Federal law requires that Publicly Owned Treatment Works (POTWs) of a certain size or larger (including EBMUD) formulate pre-treatment standards. The pre-treatment standards have specific limits for discharges of wastes from industries. These pre-treatment standards are enforceable as violations of law after the pre-treatment program of the POTW has been approved by the United States Environmental Protection Agency (USEPA).

I have previously confirmed with Special Agent David Wilma of the USEPA Criminal Investigation Division that EBMUD has an approved pre-treatment program.

I contacted Joe Damas, the Wastewater Manager of EBMUD, and verified that the prohibitions contained in their Wastewater Discharge Permits are considered part of their compliance with the Federal pre-treatment regulations.

Therefore, knowing violation of the discharge prohibition of the discharge of dry cleaning process waste to the sewers constitutes violation of 13387(c) of the California Water Code.

Count Five--The sampling results taken two years apart indicating a continuing ability for solvent to flow from an underground tank(s) to soil and ground water coupled with the statements of Wilson and Evans along with other information as follows, support this count.

I received copies of parts of a file maintained by the United States Small Business Administration (SBA). On December 20, 1989 Robert Depper applied for an SBA loan to repair what he claimed was damage to the underground tank system due to the Loma Prieta Earthquake. Depper alleged that the earthquake had caused pipes in the underground tank system to rupture, causing leakage. Depper provided supporting test results to prove this leakage. Subsequent SBA documents indicate that Stuart Depper was the point of contact on most inquiries from the SBA about the loan application and surrounding facts. Based on this information, it

is clear that both Robert and Stuart Depper knew of the leaks from the underground tank system for at least two and one half years prior to the October, 1992 warrant service and for several months prior to the October, 1990 warrant service.

Count Six--The presence of this material co-mingled with common garbage inside a dumpster which is to be used only for regular garbage along with laboratory results which confirm this to be perchloroethylene waste support this charge.

Count Seven--The laboratory analysis of the samples obtained from the drain system support this count.

Count Eight--The presence of hazardous wastes on site for over ninety days constitutes a violation of Section 66262.34 of the California Code of Regulations. This section was clearly violated by the storage of the drums of hazardous wastes in the fur drying room for over two years. Violation of this section constitutes a violation of Section 25189.5(d) of the California Health and Safety Code.

Count Nine--As noted above, there were many containers of hazardous waste throughout the facility which contained no labeling as to contents or the starting accumulation date of the waste. This supports this count.

Count Ten--As noted above, there were many containers of hazardous waste throughout the facility which were not closed. This supports this count

Count Eleven--As noted above, there was no evidence of secondary containment around any hazardous waste containers anywhere in the facility. This substantiates this count.

Count Twelve--The BAAQMD representatives reported to me that solvents and spent solvents were maintained in containers that were not closed. They stated that this violated their Regulation 8, Rule 17-301.2. Violation of this regulation is a violation of Section 42400 of the California Health and Safety Code.

Count Thirteen--The BAAQMD representatives reported to me that dry cleaning wastes were maintained in containers that were not sealed. They stated that this violated their Regulation 8, Rule 17-301.5. Violation of this regulation is a violation of Section 42400 of the California Health and Safety Code.

Count Fourteen--The BAAQMD representatives reported to me that solvents were maintained in containers that were not closed. They stated that this violated their Regulation 8, Rule 27-301.7. Violation of this regulation is a violation of Section 42400 of the California Health and Safety Code.

Count Fifteen--The BAAQMD representatives reported to me that The Glovatorium operated dry cleaning equipment from which solvent

liquid or vapor was leaking. They stated that this violated their Regulation 8, Rule 17-301.1. Violation of this regulation is a violation of Section 42400 of the California Health and Safety Code.

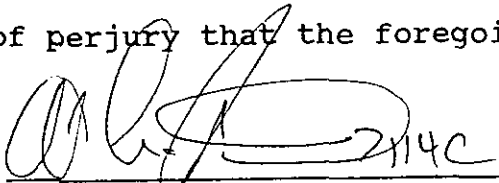
Count Sixteen--The BAAQMD representatives reported to me that The Glovatorium operated a solvent filtration system without meeting the requirements of their Regulation 8, Rule 17-303. Violation of this regulation is a violation of Section 42400 of the California Health and Safety Code.

That this affidavit was prepared in the ordinary course of business and pursuant to the sworn duty of the officer subscribing same, and that declarant believes the contents herein to be true.

That the contents of said affidavit provide probable cause to believe that said Defendant committed said offenses and therefore support the arrest and/or the issuance of a warrant of arrest for said Defendant.

Dated: April 1, 1993 at, Oakland, Alameda County, California.

I declare under penalty of perjury that the foregoing is true and correct.



Alan L. Whitman