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TELECOPIER (415) 397-4238

October 9, 1997

VIA FACSIMILE

Custodian of Records
[See attached list of addressees.]

Re: *Augeas Corporation v. Richard Gilcrease, et al.*
Deposition Subpoena from Augeas Corporation

Dear Custodian of Records:

We represent defendant Richard Gilcrease in the referenced action.

You have recently been served by plaintiff Augeas Corporation with a deposition subpoena to produce business records in the referenced action. By order of the San Mateo County Superior Court, the deposition subpoena you have received is QUASHED. (See attached Order.) That means that the subpoena has been CANCELLED and you must not respond to it. If you have already sent documents in response to the subpoena, Augeas Corporation and its deposition officer, Robert A. Cook & Staff, Inc., are required to return them to you without unsealing them, inspecting them, or copying them.

Thank you for your cooperation. Please feel free to call me if you have any questions.

Very truly yours,



Jon Welner

Attachments

cc: Bruce Lubarsky, Esq. (Jackson • Lubarsky)
Lisa Pratten (Robert A. Cook & Staff, Inc.)

List of Addressees:

Craig Hertz
All Environmental, Inc.
2641 Crow Canyon Blvd.
Suite 5
San Ramon, CA 94583
Fax: 510-283-6121

Beth Dorris
Legal Department
Arco Products Company
1055 W. 7th Street
Los Angeles, CA 90051-0570
Fax: 213-486-0930

Srikanth Dasappa
USA Petroleum Corporation
30101 Agoura Court, #200
Agoura Hills, CA 91301-4311
Fax: 818-865-0092

Joe Turner
J. M. Turner Engineering, Inc.
136A Wikiup Drive
Santa Rosa, CA 95403
Fax: 707-528-4505

Paul Brophy
EGS, Inc.
858 2nd St.
Suite F
Santa Rosa, CA 95405
Fax: 707-544-4602

Gordon Coleman
Alameda County Health Care Services
131 Harbor Bay Parkway
2nd Floor
Alameda, CA 94502
Fax: 510-337-9335

Gary Meseratus
Emcon
1921 Ringwood Avenue
San Jose, CA 95131-1721
Fax: 408-437-9526

Richard Belyea
Home Savings of America
4900 River Grade Rd.
Bldg. 515-E1
Irwindale, CA 91706-1404
Fax: 626-814-7475

Karen Rodrigue, City Attorney's Office for
City of Oakland Public Works Agency
1333 Broadway
Suite 330
Oakland, CA 94612
Fax: 510-238-7337

Karen Rodrigue, City Attorney's Office for
City of Oakland
Economic Development and Employment
1333 Broadway
Suite 330
Oakland, CA 94612
Fax: 510-238-7337

Robin Blackman
McDonalds Corporation
2527 Camino Ramon, Suite 300
San Ramon, CA 94583
Fax: 510-904-3086

Robert S. Creps
PES Environmental, Inc.
1682 Novato Blvd., Suite 100
Novato, CA 94947
Fax: 415-899-1601

Ken Phares
Jay-Phares Corporation
10700 MacArthur Blvd.
Suite 200
Oakland, CA 94605-5260
Fax: 510-562-9505

1 DAVID D. COOKE (Bar No. 94939)
 2 JONATHAN WELNER (Bar No. 178578)
 3 BEVERIDGE & DIAMOND
 4 One Sansome Street, Suite 3400
 5 San Francisco, CA 94104-4438
 6 Telephone: (415) 397-0100

7 Attorneys for Defendant
 8 RICHARD GILCREASE

RECEIVED
 SEP 28 1997
 (ENDORSED)
 CLERK OF THE SUPERIOR COURT
 SAN MATEO COUNTY
 FILED
 SAN MATEO COUNTY

OCT - 7 1997

Clerk of the Superior Court
 By MARY HENRY
 DEPUTY CLERK

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF SAN MATEO

11 AUGEAS CORPORATION,

12 Plaintiff,

13 vs.

14 RICHARD GILCREASE, individually and
 15 dba DRAKE BUILDERS, and DOES 1 to
 16 10,

16 Defendants.

17 AND RELATED CROSS-ACTION.
 18

Case No. 400326
 (formerly Municipal Court Case No. C-153734)

ORDER QUASHING SUBPOENAS

Hearing: ^{Oct 7} ~~September~~ 30, 1997, 9:00 a.m.
 Department: ~~2~~
 Trial Date: December 16, 1997

19
 20 Good cause appearing, it is hereby ORDERED that the deposition subpoenas served by
 21 plaintiff Augreas Corporation upon the following nonparties for production of business records are
 22 QUASHED: ARCO Products Company (Culver City office); USA Petroleum Corporation;
 23 Home Savings of America; J.M. Turner Engineering, Inc.; PES Environmental, Inc.; EGS, Inc.;
 24 Alameda County Health Care Services Agency/Env. Protection/Env. Health; City of
 25 Oakland/Econ. Dev. & Empl.; Regional Water Quality Control Brd.; City of Oakland Public
 26 Works Agency; McDonald's Corporation; All Environmental, Inc.; Emcon; ARCO Products
 27 Company (San Jose office); and John Jay, Ken Phares, dba Foothill Square Partnership dba JPL
 28 Partner.

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Plaintiff Augeas shall immediately notify the above-listed nonparties that the subpoenas have been quashed, and shall return all materials inadvertently delivered in response to the subpoenas without unsealing them.

It is so ORDERED.

Dated: *October* September 7, 1997

Linda Mirano Grullo
Superior Court Judge

S:\CLM\641\4152\PLG\4152J1W.008

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): JACKSON * LUBARSKY ATTORNEYS AT LAW 400 S. EL CAMINO REAL SUITE 700 SAN MATEO, CA 94402 BRUCE LUBARSKY ATTORNEY FOR (Name): PLAINTIFF	TELEPHONE NO.: 650/348-0102	FOR COURT USE ONLY
NAME OF COURT: THE SUPERIOR COURT OF THE STATE OF CALIFORNIA STREET ADDRESS: COUNTY OF SAN MATEO MAILING ADDRESS: 401 MARSHALL STREET CITY AND ZIP CODE: REDWOOD CITY, CA 94063 BRANCH NAME:		CASE NUMBER: 400326
PLAINTIFF/PETITIONER: AUGEAS CORPORATION DEFENDANT/RESPONDENT: RICHARD GILCREASE, INDIVIDUALLY & DBA DRAKE BUILDERS		
DEPOSITION SUBPOENA For Production of Business Records		

**THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name): CUSTODIAN OF RECORDS FOR:
 ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY/ENV. PROTECTION/ENV. HEALTH**

1. YOU ARE ORDERED TO PRODUCE THE BUSINESS RECORDS described in Item 3 as follows:

Deposition Officer (name): ROBERT A. COOK & STAFF	Phone Number: (408) 441-7000
Date: 10/01/97	Time: 09:30 AM
Address: 2025 GATEWAY PLACE SUITE 330, SAN JOSE, CA. 95110	

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. by delivering a true, legible, and durable copy of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
 - b. by delivering a true, legible, and durable copy of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
 - c. by making the original business records described in item 3 available for inspection at your business address by the attorney's representative and permitting copying at your business address under reasonable conditions during normal business hours.
2. *The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.*
3. **The records to be produced are described as follows:**
 See attachment 3 for details.

Continued on attachment 3.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: **09/05/97**

BRUCE LUBARSKY
 (TYPE OR PRINT NAME)

 /S/
 (SIGNATURE OF PERSON ISSUING SUBPOENA)

(TITLE)

(See reverse for proof of service)

**RE: AUGEAS CORPORATION VS. RICHARD GILCREASE, INDIVIDUALLY & DBA
DRAKE BUILDERS**

**ALL DOCUMENTS, TELEPHONE LOGS, MEMORANDA, ETC. CONCERNING RICHARD
GILCREASE DBA DRAKE BUILDERS AND/OR YOUNGS CLEANERS, 10700 MACARTHUR
BLVD., OAKLAND, CA.**

INCLUDE RECORDS OF MESSRS. BARNEY CHAN, TOM PEACOCK, AND SCOTT SEERY.

(PROOF OF SERVICE BY MAIL - C.C.P. 1013)

I am employed in the county of SANTA CLARA, my business address is 2025 GATEWAY PLACE #330, SAN JOSE, CA 95110, I am over the age of eighteen (18), and am not a party to the within action(s). I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service, and that the correspondence described below will be deposited with the United States Postal Service today in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing affidavit. I served the within copy: NOTICE TO CONSUMER PURSUANT TO CCP 1985.3, 1985.4 AND/OR 1985.6, DEPOSITION SUBPOENA - BUSINESS RECORDS, on the below listed entities in said actions by placing said documents in a sealed envelope with postage fully prepaid and addressed as follows:

**BEVERIDGE & DIAMOND
ATTORNEYS AT LAW
ONE SANSOME ST., #3400
SAN FRANCISCO, CA 94104 4430
ATTN: JONATHAN WELNER, ESQ.**

and that they were deposited on 09/05/97 for deposit in the United States Postal Service and that the envelope was sealed and placed for collection and mailing that date at ROBERT A. COOK & STAFF, INC. 2025 GATEWAY PLACE #330, SAN JOSE, CA 95110, following ordinary business practices.

DATED: 09/05/97 AT SAN JOSE, CALIFORNIA

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

*This form was printed for
all subpoenas in this series*

Melinda Lee
signature

(SEE OTHER SIDE FOR NOTICE TO CONSUMER)

NOTICE TO CONSUMER

(PURSUANT TO CCP 1985.3, 1985.4 AND/OR 1985.6,)
(IF APPLICABLE)

**YOUR PERSONAL AND/OR EMPLOYMENT RECORDS ARE BEING
SOUGHT AS INDICATED ON THE ATTACHED PAPERS.**

1. Those entities or witnesses shown on the attached Subpoena are to produce your employment and/or personal records.
2. If you object to the witnesses or entities furnishing the described records, as indicated on the attached papers, you must file papers with the court prior to the date specified for production on the subpoena. Employment records may be protected by a right of privacy.
3. If the party who is seeking the records will not agree in writing to cancel or limit the subpoena, you should consult an attorney about your interest in protecting your right of privacy.
4. If you are a non-party consumer and object to your records being produced you must serve your written objection on the requesting party and the witness specifying the specific grounds on which production of your personal records should be prohibited.

DISTRIBUTION:

Consumer or his attorney

Deponent

Subpoenaing Attorney

All other counsel of record

***This form was printed for
all subpoenas in this series***