



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

OAL DKT. NO. ECE 00014-23  
AGENCY DKT. NO. PEA 190002-  
27478  
(ON REMAND ECE 10303-19)

**NEW JERSEY DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,  
SOLID WASTE COMPLIANCE  
AND ENFORCEMENT,**

Petitioner,

v.

**CLASSIC CLEANING (DOING BUSINESS  
AS BIO-CLEAN OF NEW JERSEY)  
AND ANDREW P. YURCHUCK, INDIVIDUALLY,**  
Respondents.

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**William Rozell**, Deputy Attorney General, for petitioner (Matthew J. Platkin  
Attorney General of New Jersey, attorney)

**Andrew P. Yurchuck**, pro se, for respondents

**BEFORE SARAH G. CROWLEY, ALJ:**

Record Closed: May 22, 2023

Decided: June 20, 2023

### **STATEMENT OF THE CASE**

On March 11, 2019, respondent, Bio-Clean of New Jersey (Bio-Clean) was issued a Notice of Civil Administrative Penalty Assessment (NOCAP) by the petitioner, New Jersey Department of Environmental Protection Department, Solid Waste Compliance and Enforcement (NJDEP, Department), for violations of the New Jersey Comprehensive Regulated Medical Waste Management Act (the RMW Act) and its supporting regulations. The Department issued Bio-Clean a Notice of Civil Administrative Penalty Assessment (NOCAPA) claiming violations of N.J.A.C. 7:26-3.2(c), 16.3(a); and 7:26H-1.6(a). Bio-Clean denies any violation of the law claiming that Bio-Clean cleaned the areas in question and bagged the waste in question which constitutes a "cleanup" and thus, the exemption for self-generated waste applied.

### **PROCEDURAL HISTORY**

Bio-Clean appealed and requested an administrative hearing on April 7, 2019, and the matter was transmitted to the Office of Administrative Law (OAL) as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. A hearing was held via Zoom on February 3, 2022, and the record closed after post-hearing submissions were filed on May 4, 2022, and May 12, 2022. An initial decision was issued on June 6, 2022, reversing the decision of the NJDEP, finding that the NJDEP failed to prove the violations by a preponderance of the credible evidence, as the only evidence of the violations was in the form of uncorroborated hearsay statements from unnamed Borgata employees who did not testify at the hearing. Accordingly, no penalty was imposed by the undersigned in the initial proceeding. The matter was reversed by the NJDEP and remanded with direction to take additional testimony on the issue of the penalty. Testimony was taken via ZOOM on May 22, 2023, and the record closed at that time.

### **TESTIMONY**

#### **For petitioner**

**Robert Gomes** is employed as a Bureau Chief for the NJDEP. He was responsible for the issuance of the NOCAP and the penalty in the within matter. He referenced the six violations and referenced the range of penalties that can be imposed from moderate to severe. There were six violations and the NJDEP felt that a mid-range penalty was appropriate given that there were several instances of the violations.

#### **For respondent**

**Andrew P. Yurchek** testified on his own behalf. He maintained that he felt that he did not violate the rules as he was always conducting a cleanup as well as transport which was not a violation of the law. He felt the NJDEP should be more lenient given the minor violations, if any, that occurred and his efforts to obtain the proper license once he was advised of the alleged violations. He referenced some proposed regulations for first time offences in New Jersey that have not gone into effect in support of request for leniency.

### **LEGAL ANALYSIS AND CONCLUSIONS**

I **CONCLUDE** that the penalty of \$25,000 for the alleged infractions is reasonable and consistent with the New Jersey Civil Administrative Penalty Assessment in this matter.

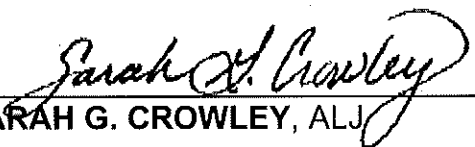
I hereby **FILE** my initial decision with the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION** for consideration.

This recommended decision may be adopted, modified or rejected by the **COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION**, who by law is authorized to make a final decision in this matter. If the Commissioner of the Department of Environmental Protection does not adopt, modify or reject this decision

within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR, OFFICE OF LEGAL AFFAIRS, DEPARTMENT OF ENVIRONMENTAL PROTECTION, 401 East State Street, 4th Floor, West Wing, PO Box 402, Trenton, New Jersey 08625-0402**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 20, 2023  
DATE

  
SARAH G. CROWLEY, ALJ

Date Received at Agency:

June 20, 2023

Date Mailed to Parties:

June 20, 2023

SGC/nn/kl

**SW - Solid  
Waste**

**STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW**

33 Washington Street  
Newark, NJ 07102  
(973) 648-7136

9 Quakerbridge Plaza / PO Box 049  
Trenton, NJ 08625-0049  
609-689-4028

**FILED**

**FROM:**

NJDEP/Office of Administrative Hearings & Dispute Resolution

**NAME OF AGENCY**

Mail Code 401-07A; P.O. Box 420  
Trenton, NJ 08625-0420

**ADDRESS**

Linda L. Taylor, Director

**TRANSMITTING OFFICER**

609-322-9741

**TELEPHONE NUMBER**

OLA No. 22-0246

(REMAND of OLA No. 19-0069)

STATE OF NEW JERSEY  
OFFICE OF ADMIN. LAW

**ECE**

**00014-23**

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION - SOLID WASTE COMPLIANCE AND  
ENFORCEMENT

v.

CLASSIC CLEANING (D.B.A. BIO-CLEAN OF NJ)  
AND ANDREW P. YURCHUCK, INDIVIDUALLY

**Name of Contested Case or Short Title**

**PEA190002,27478**

**Agency Docket / Reference Number**

**Appeal of a(n) Notice of Civil Administrative Penalty  
Assessment**

2 Days(s) or        Hours

       Yes X No If yes, please specify  
requirements and citation :       

       Yes X No

Per the Final Decision of OAL Dckt No.:  
ECE SW10303-19, OLA File # 19-0069,  
this file is remanded to OAL for determination  
of the penalty.

       Yes        No X Uncertain

X Yes        No If no, the documents shall be  
served on or offered to the parties on:       

**NONE**

**OAL OFFICIAL USE**

**COUNTY** GLOUCESTER \*

**JURISDICTION** SOUTH \*

\*\*\*\*\*  
THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED:

1. Nature of the case. Please include references to statutes or rules and briefly summarize the facts and law involved. Attach pleadings to this form.
2. Estimated time required for hearing.
3. Legal requirements (State or Federal) mandating a date for Agency Decision:
4. Is a court stenographer requested?
5. **Special features to be anticipated in this matter**, i.e., emergent relief, discovery motions, prehearing conference, conference hearing, remand, expedited hearings, location (county).
6. Is a barrier-free location needed?
7. Have the attached documents been exchanged between the parties?
8. Names of other agencies claiming jurisdiction over

Transmitting officer or other agency personnel to receive notices of hearing etc., pursuant to N.J.A.C. 1:1-8.2 (a) 13. This person need not be served by the parties with motions, correspondence, etc.

Linda L. Taylor Director  
NJDEP/Office of Administrative Hearings & Dispute Resolution  
Mail Code 401-07A; P.O. Box 420  
Trenton, NJ 08625-0420  
PHONE #: (609) 322-9741 FAX: (609) 984-3488  
E-MAIL ADDRESS: Linda.Taylor@dep.nj.gov

### SERVICE LIST

#### Parties Named in this Proceeding and their Representatives

For additional parties, attach names, addresses and telephone numbers of each party linked with that representative if any.

#### #1. PETITIONER

Robert Gomez

NJDEP/Solid Waste Compliance and Enforcement

P.O. Box 420

9 Ewing Street; Mail Code 09-01

Trenton, NJ 08625-0420

TELEPHONE # (609) 292-3837

FAX : (609) 292-4539

E-MAIL ADDRESS: robert.gomez@dep.nj.gov

#### #2. RESPONDENT

Andrew P. Yurchuck, Owner

Classic Cleaning (D.B.A. Bio-Clean of NJ)

1709 Biden Lane,

Williamstown, NJ 08094

TELEPHONE #: 609-352-2180

FAX :

E-MAIL ADDRESS: C. Yurchuck@ccn.com

#### #3. OTHER

TELEPHONE #

FAX :

E-MAIL ADDRESS:

#### #4. OTHER

TELEPHONE #

FAX :

E-MAIL ADDRESS:

#### PETITIONER REPRESENTATIVE

William Rozell, Deputy Attorney General

NJ Dept. of Law and Public Safety, Division of Law

Hughes Justice Complex

P.O. Box 093

Trenton, NJ 08625-0093

TELEPHONE: 609-376-2789

FAX: 609-341-5031

E-MAIL ADDRESS: William.Rozell@lps.state.nj.us

#### RESPONDENT REPRESENTATIVE.

TELEPHONE #:

FAX :

E-MAIL ADDRESS:

#### OTHER REPRESENTATIVE

TELEPHONE #

FAX :

E-MAIL ADDRESS:

#### OTHER REPRESENTATIVE

TELEPHONE #

FAX :

E-MAIL ADDRESS:

(Please attach additional sheets for contacts as necessary and indicate representation)

**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** crimescenenj@icloud.com; crimescenenj@mac.com  
**Sent:** Tuesday, June 20, 2023 4:46 PM  
**Subject:** Relayed: ECE 10303-19 NJDEP v. Classic Cleaning Yurchuck - ID

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[crimescenenj@icloud.com](mailto:crimescenenj@icloud.com) ([crimescenenj@icloud.com](mailto:crimescenenj@icloud.com))

[crimescenenj@mac.com](mailto:crimescenenj@mac.com) ([crimescenenj@mac.com](mailto:crimescenenj@mac.com))

Subject: ECE 10303-19 NJDEP v. Classic Cleaning Yurchuck - ID



ECE 10303-19  
NJDEP v. Classic...

**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** Rozell, William (LPS)  
**Sent:** Tuesday, June 20, 2023 4:46 PM  
**Subject:** Relayed: ECE 10303-19 NJDEP v. Classic Cleaning Yurchuck - ID

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

Rozell, William (LPS) (William.Rozell@law.njoag.gov)

Subject: ECE 10303-19 NJDEP v. Classic Cleaning Yurchuck - ID



ECE 10303-19  
NJDEP v. Classic...



**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** DEP Decisions  
**Sent:** Tuesday, June 20, 2023 4:45 PM  
**Subject:** Delivered: ID

**Your message has been delivered to the following recipients:**

DEP Decisions (depdecision@dep.nj.gov)

Subject: ID



ID

**APPENDIX**

**WITNESSES**

**For petitioner**

Robert Gomes

**For respondents**

Andrew P. Yurchuck

**EXHIBITS**

**For petitioner**

None

**For respondents**

None

**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** oal decisions [OAL]  
**Sent:** Tuesday, June 20, 2023 4:45 PM  
**Subject:** Delivered: ID

**Your message has been delivered to the following recipients:**

oal decisions [OAL] (oaldecisions@oal.nj.gov)

Subject: ID



ID

**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** Rick Keiser  
**Sent:** Tuesday, June 20, 2023 4:45 PM  
**Subject:** Delivered: ID

**Your message has been delivered to the following recipients:**

[Rick Keiser \(rick.keiser@oal.nj.gov\)](mailto:rick.keiser@oal.nj.gov)

Subject: ID



ID

**Lee, Kelly [OAL]**

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**From:** Microsoft Outlook  
**To:** Candice Hendricks  
**Sent:** Tuesday, June 20, 2023 4:45 PM  
**Subject:** Delivered: ID

**Your message has been delivered to the following recipients:**

Candice Hendricks (Candice.Hendricks@oal.nj.gov)

Subject: ID



ID