

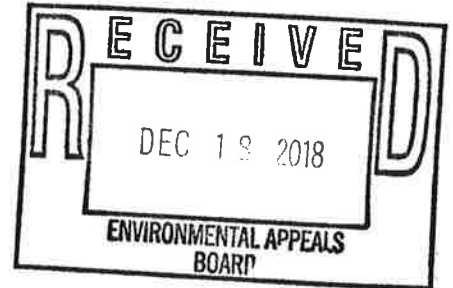
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December 17, 2018

BY FIRST-CLASS U.S. MAIL & HAND DELIVERY

Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
ATTN: Administrative Assistant to the Board



**Re: Statement of Appeal / Order No. 2018-WH-0064
Upesh Vyas / Sitaram, Inc. t/a Pep Up #8**

To the Environmental Appeals Board:

Our office represents Upesh Vyas and Sitaram, Inc. (collectively "Respondent") in this matter. Please allow this letter to serve as Respondent's request for an appeal of Secretary's Order No. 2018-WH0064 (the "Order").

In support of this appeal, and pursuant to 7 *Del. Admin. C.* § 105-2.0, Respondent offers the following written statement in support of his appeal:

1. Respondent is directly affected by the Order because if the Order is upheld, Respondent will be responsible for paying a substantial fine as set forth in the Order.
2. Respondent believes the Order and the Secretary's decision to be improper.
3. Respondent's belief is based on the following reasons:
 - a. The alleged conduct or violation should not be ascribed to Respondent;
 - b. The alleged conduct or violation in question is not punishable by a fine of this nature;
 - c. The Order is arbitrary or capricious or both in that it sets forth no method by which the Secretary calculated the fine;
 - d. The amount of the fine does not reflect, and is disproportionate to, the alleged conduct or alleged violations;
 - e. Upon information and belief, the Order improperly calculates the amount of fine due;

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- f. The Order rests upon factual errors regarding Respondent's alleged conduct or violations; and
- g. The Order rests upon other legal errors.

Respondent expects that his portion of the appeal will involve 3 witnesses on Respondent's behalf. Respondent lacks information to estimate the number of witnesses the Secretary's office may call.

Enclosed is the \$50.00 deposit for costs required under 7 *Del. Admin. C.* § 105-2.3.

Please contact me if you have further questions or concerns.

Sincerely,



R. Eric Hacker, Esquire

/enclosure

cc: Upesh Vyas