

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

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IN THE MATTER OF:)	SETTLEMENT AGREEMENT
)	FOR RECOVERY OF PAST
)	RESPONSE COSTS
Marko Engraving & Art Corp. Site)	
Borough of Fairview, Bergen County, New Jersey)	U.S. EPA Region 2
)	CERCLA Docket No. 02-2023-2024
Ljubow Melnitschenko)	
)	PROCEEDING UNDER
Settling Party)	SECTION 122(h)(1) OF CERCLA
<hr/>)	42 U.S.C. § 9622(h)(1)

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I. JURISDICTION

1. This Settlement Agreement is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, which authority has been delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders), redelegated to the Director of the Emergency and Remedial Response Division, EPA, Region 2, by Regional Order R-1200, dated January 19, 2017, and conferred to the Director of the Superfund and Emergency Management Division of EPA Region 2 by Regional Memorandum “Redelegations and the Regional Realignment” (March 27, 2019).

2. This Settlement Agreement is made and entered into by EPA and Ljubow Melnitschenko (“Settling Party”). Settling Party consents to and will not contest EPA’s authority to enter into this Settlement Agreement or to implement or enforce its terms.

II. BACKGROUND

3. This Settlement Agreement concerns the Marko Engraving & Art Corp. site (“Site”) located at 429-439 Fairview Avenue in Fairview, New Jersey. EPA alleges that the Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4. In response to the release or threatened release of hazardous substances at or from the Site, EPA undertook response actions at the Site pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604. Such actions included overpacking deteriorating drums and other containers containing hazardous substances at the Site, field screening and sampling of materials to determine disposal parameters, and disposal of hazardous substances at a licensed off-site facility.

5. In performing response actions, EPA has incurred response costs at or in connection with the Site.

6. EPA alleges that Settling Party is a responsible party pursuant to Section 107(a) of CERCLA.

7. On or about July 29, 2021, EPA caused a Notice of Federal Lien to be recorded in the records of the Bergen County Clerk, Instrument # 2021122394, giving notice that the United States holds a lien on Settling Party’s property located at 429-439 Fairview Avenue, Borough of Fairview, Bergen County, New Jersey, designated as Block 217, Lot 21 on the Tax Map of Fairview, as provided by Section 107(l) of CERCLA, 42 U.S.C. § 9607(l).

8. EPA has determined that the total past and projected response costs of the United States at or in connection with the Site will not exceed \$500,000, excluding interest.

9. EPA and Settling Party recognize that this Settlement Agreement has been negotiated in good faith and that this Settlement Agreement is entered into without the admission or adjudication of any issue of fact or law. The actions undertaken by Settling Party in accordance with this Settlement Agreement do not constitute an admission of any liability by Settling Party. Settling Party does not admit and retains the right to controvert in any subsequent

proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the facts or allegations contained in this Section.

III. PARTIES BOUND

10. This Settlement Agreement shall be binding upon EPA and upon Settling Party and her heirs, successors, and assigns. Any change in ownership or corporate or other legal status of Settling Party, including but not limited to, any transfer of assets or real or personal property shall in no way alter Settling Party's responsibilities under this Settlement Agreement. Each signatory to this Settlement Agreement certifies that he or she is authorized to enter into the terms and conditions of this Settlement Agreement and to bind legally the party represented by him or her.

IV. DEFINITIONS

11. Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601-9675.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement Agreement as provided by Section XVI.

“EPA” shall mean the United States Environmental Protection Agency.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“Financial Information” shall mean those financial documents identified in Appendix C.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” shall mean EPA and Settling Party.

“Past Response Costs” shall mean all costs, including but not limited to direct and indirect costs, that EPA has paid at or in connection with the Site through April 30, 2023, which totals \$387,768.72, plus any accrued Interest on all such costs through such date.

“Properties” shall mean the following properties owned by Settling Party: 1) 429-439 Fairview Avenue in Fairview, New Jersey (Block 217, Lot 21 on the Tax Map of Fairview); 2) 6717 Boulevard East, Guttenberg, New Jersey 07093 (Block 33, Lot 26 on the Tax Map of Guttenberg); and 3) 6719 Boulevard East, Guttenberg, New Jersey 07093 (Block 33, Lot 25 on the Tax Map of Guttenberg).

“Property Sale Date” shall mean the closing date for the sale of the last of the three Properties to be sold by Settling Party, or the closing date for the sale of all three Properties if they are sold on the same date. As of April 14, 2023, all three Properties are under contract to be sold.

“RCRA” shall mean the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral.

“Settlement Agreement” shall mean this Settlement Agreement and any attached appendices. In the event of conflict between this Settlement Agreement and any appendix, the Settlement Agreement shall control.

“Settling Party” shall mean Ljubow Melnitschenko.

“Site” shall mean the Marko Engraving & Art Corp. Site, encompassing approximately 0.4 acres, located at 429-439 Fairview Avenue in Fairview, New Jersey (Block 217, Lot 21 on the Tax Map of Fairview) and generally shown on the map included in Appendix A.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

V. PAYMENT OF RESPONSE COSTS; NOTIFICATION OF PROPERTY SALE

12. **Payment by Settling Party for Past Response Costs.** Settling Party shall pay EPA the principal amount of \$225,000. The payment, including interest thereon, shall be made as follows:

- a. If the Property Sale Date occurs prior to the Effective Date: Within 7 days of the later of the Property Sale Date or Settling Party’s receipt of notice from EPA that the Settlement Agreement has been signed by EPA, Settling Party shall deposit \$225,000 into an interest-bearing escrow account in a duly chartered bank or trust company that is insured by the Federal Deposit Insurance Corporation. If, after conclusion of the public

comment period, EPA gives notice to Settling Party that it will not make the Settlement Agreement final, Settling Party may request that the monies placed in escrow, together with accrued interest thereon, be returned in full to Settling Party. If the Settlement Agreement is made effective after public comment, Settling Party shall, within 15 days after the Effective Date, cause the monies in the Escrow Account, together with accrued interest thereon, to be paid to EPA in accordance with Paragraph 13 below.

- b. If the Property Sale Date occurs after the Effective Date: Within 30 days after the Property Sale Date, Settling Party shall pay to EPA \$225,000 plus an additional sum for Interest on that amount calculated from April 30, 2023 through the date of payment, in accordance with Paragraph 13 below.

13. Settling Party shall make the payment at <https://www.pay.gov> in accordance with the following payment instructions: 1) enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center and 2) complete the form including the Site Name, docket number, and Site/Spill ID Number A29J. Settling Party shall send to EPA in accordance with Section XIII (Notices and Submissions), a notice of this payment including these references.

14. **Notifications.** Settling Party shall send notice to EPA in accordance with Section XIII:

- a. of the scheduled Property Sale Date, within 3 days after such date is scheduled.
- b. of the occurrence of the Property Sale Date and the deposit of funds in the escrow account as provided in Paragraph 12.a, if the Property Sale Date occurs prior to the Effective Date, within 3 days after the deposit has been made and shall include a statement from the escrow account showing evidence of the deposit of the funds.

15. **Deposit of Payment.** The total amount to be paid by Settling Party pursuant to Paragraph 12 shall be deposited by EPA in the EPA Hazardous Substance Superfund.

VI. FAILURE TO COMPLY WITH SETTLEMENT AGREEMENT

16. **Interest on Late Payments.** If Settling Party fails to make any payment required by Paragraph 12 (Payment by Settling Party for Past Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

17. **Stipulated Penalty**

a. If any amounts due to EPA under Paragraph 12 (Payment by Settling Party for Past Response Costs) are not paid by the required date, Settling Party shall be in violation of this Settlement Agreement and shall pay to EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 16 (Interest on Late Payments), \$1,000 per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days after the date of demand for payment of the penalties by EPA. Settling Party shall make all payments at <https://www.pay.gov> using the following instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form - Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number A29J, and indicate in the comment field that the payment is for stipulated penalties. Settling Party shall send to EPA, in accordance with Section XIII (Notices and Submissions), a notice of this payment including these references.

c. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Party of the violation or made a demand for payment but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

18. In addition to the Interest and stipulated penalty payments required by this Section and any other remedies or sanctions available to EPA by virtue of Settling Party’s failure to comply with the requirements of this Settlement Agreement, Settling Party shall be subject to enforcement action pursuant to Section 122(h)(3) of CERCLA, 42 U.S.C. § 9622(h)(3). If the United States, on behalf of EPA, brings an action to enforce this Settlement Agreement, Settling Party shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

19. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Settlement Agreement. Payment of stipulated penalties shall not excuse Settling Party from payment as required by Section V (Payment of Response Costs) or from performance of any other requirements of this Settlement Agreement.

VII. COVENANTS BY EPA

20. **Covenants for Settling Party by EPA.** Except as specifically provided in Section VIII (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against Settling Party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), to recover Past Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon 1) the satisfactory performance by Settling Party of its obligations under this Settlement Agreement, 2) EPA’s receipt of the payment required by Paragraph 12, and 3) the veracity and completeness of the Financial Information provided to EPA by Settling Party and the certification made by Settling Party in Paragraph 39. These covenants extend only to Settling Party and do not extend to any other person.

VIII. RESERVATIONS OF RIGHTS BY EPA

21. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to all matters not expressly included within Paragraph 20 (Covenants for Settling Party by EPA). Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Settling Party with respect to:

- a. liability for failure of Settling Party to meet a requirement of this Settlement Agreement;
- b. liability for costs incurred or to be incurred by the United States that are not within the definition of Past Response Costs;
- c. liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606;
- d. criminal liability; and
- e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments.

22. Notwithstanding any other provision of this Settlement Agreement, EPA reserves, and this Settlement Agreement is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Settlement Agreement, if the Financial Information provided by Settling Party, or the financial certification made by Settling Party in Paragraph 39, is false or, in any material respect, inaccurate.

23. Nothing in this Settlement Agreement is intended to be nor shall it be construed as a release, covenant not to sue, or compromise of any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, that the United States may have against any person, firm, corporation or other entity not a signatory to this Settlement Agreement.

IX. COVENANTS BY SETTLING PARTY

24. **Covenants by Settling Party.** Settling Party covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Past Response Costs and this Settlement Agreement, including but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claims arising out of the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Constitution of the State of New Jersey, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; and
- c. any claim pursuant to Section 107 or 113 of CERCLA, 42 U.S.C. § 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law for Past Response Costs.

25. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

26. **Waiver of Claims by Settling Party**

a. Settling Party agrees not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) that it may have:

(1) **De Micromis Waiver.** For all matters relating to the Site against any person where the person's liability to Settling Party with respect to the Site is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials;

b. **Exceptions to Waiver**

(1) The waiver under this Paragraph 26 shall not apply with respect to any defense, claim, or cause of action that Settling Party may have against any person otherwise covered by such waiver if such person asserts a claim or cause of action relating to the Site against Settling Party.

(2) The waiver under Paragraph 26.a(1) (De Micromis Waiver) shall not apply to any claim or cause of action against any person otherwise covered by such waiver if EPA determines that: (i) the materials containing hazardous substances contributed to the Site by such person contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration at the Site; or (ii) such person has failed to comply with any information request or administrative subpoena issued pursuant to Section 104(e) or 122(e)(3)(B) of CERCLA, 42 U.S.C. § 9604(e) or 9622(e)(3)(B), or Section 3007 of RCRA, 42 U.S.C. § 6927, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site; or if (iii) such person has been convicted of a criminal violation for the conduct to which the waiver would apply and that conviction has not been vitiated on appeal or otherwise.

X. EFFECT OF SETTLEMENT/CONTRIBUTION

27. Except as provided in Paragraph 26 (Waiver of Claims by Settling Party), nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section IX (Covenants by Settling Party), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that it may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613 (f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

28. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the “matters addressed” in this Settlement Agreement. The “matters addressed” in this Settlement Agreement are Past Response Costs.

29. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which Settling Party has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

30. Settling Party shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Settling Party also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, Settling Party shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

31. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Party shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by EPA set forth in Section VII.

32. Effective upon signature of this Settlement Agreement by Settling Party, Settling Party agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Settling Party the payment required by Section V (Payment of Response Costs) and, if any, Section VI (Failure to Comply with Settlement Agreement) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in Paragraph 28, and that, in any action brought by the United States related to the “matters addressed,” Settling Party will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Settling Party that it will not make this Settlement Agreement effective, the statute of limitations shall begin to run again commencing 90 days after the date such notice is sent by EPA.

XI. RELEASE OF FEDERAL LIEN

33. In further consideration of the payment Settling Party is making pursuant to Section V (Payment of Response Costs), and subject to the Reservations of Rights by EPA in Section VIII of this Settlement Agreement, upon receipt of the amount specified in Section V

and any interest or stipulated penalties due under Paragraphs 16 and 17, EPA agrees to release and waive the Federal Lien arising under Section 107(I) of CERCLA, 42 U.S.C. 9607(I), by executing a Discharge and Release of Lien in a form substantially similar to that attached as Appendix B that EPA will file with the Bergen County Clerk's Office, Bergen County, State of New Jersey.

XII. RETENTION OF RECORDS

34. Until 10 years after the Effective Date, Settling Party shall preserve and retain all non-identical copies of records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") now in its possession or control, or that come into its possession or control, that relate in any manner to its liability and the liability of any other person under CERCLA with respect to the Site. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

35. After the conclusion of the 10-year record retention period, Settling Party shall notify EPA at least 90 days prior to the destruction of any such Records and, upon request by EPA, and except as provided in Paragraph 36 (Privileged and Protected Claims), Settling Party shall deliver any such Records to EPA.

36. Privileged and Protected Claims

a. Settling Party may assert that all or part of a Record is privileged or protected as provided under federal law, provided they comply with Paragraph 36.b, and except as provided in Paragraph 36.c

b. If Settling Party asserts a claim of privilege or protection, they shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, each addressee, and of each recipient; a description of the Record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Settling Party shall provide the Record to EPA in redacted form to mask the privileged or protected information only. Settling Party shall retain all Records that they claim to be privileged or protected until the United States has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Settling Party's favor.

c. Settling Party may make no claim of privilege or protection regarding:

(1) any data regarding the Site, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site; or

(2) the portion of any Record that Settling Party is required to create or generate pursuant to this Settlement Agreement.

37. **Business Confidential Claims.** Settling Party may assert that all or part of a Record submitted to EPA under this Section or Section XII (Retention of Records) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA,

42 U.S.C. § 9604(e)(7), and 40 C.F.R. 2.203(b). Settling Party shall segregate and clearly identify all Records or parts thereof submitted under this Settlement Agreement for which Settling Party asserts a business confidentiality claim. Records that Settling Party claims to be confidential business information will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Settling Party that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2 Subpart B, the public may be given access to such Records without further notice to Settling Party.

38. Settling Party certifies that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by the United States and that it has fully complied with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e)(3)(B) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e)(3)(B), Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

39. Settling Party certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. submitted to EPA financial information that fairly, accurately, and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time Settling Party executes this Settlement Agreement; and

b. fully disclosed any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the Site, and submitted to EPA upon request such insurance policies, indemnity agreements, and information.

XIII. NOTICES AND SUBMISSIONS

40. Whenever, under the terms of this Settlement Agreement, notice is required to be given or a document is required to be sent by one Party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Party in writing. Except as otherwise provided, notice by email in accordance with this Section satisfies any notice requirement of this Settlement Agreement regarding such Party.

As to EPA:

Olga Pappas
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007
pappas.olga@epa.gov

and

Marissa Mattingly
Removal Action Branch
Superfund and Emergency Management Division
U.S. Environmental Protection Agency
2890 Woodbridge Avenue, Building 205 (MS-211)
Edison, New Jersey 08837
truono.marissa@epa.gov

As to Settling Party: Ljubow Melntischenko
c/o T.J. Legg, Esq.
8005 John F. Kennedy Blvd., 2nd Floor
North Bergen, New Jersey 07047
tj@legglawfirm.com

XIV. INTEGRATION/APPENDICES

41. This Settlement Agreement and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

“Appendix A” is the map of the Site.

“Appendix B” is a Sample Discharge and Release of Lien.

“Appendix C” is a list of the financial documents submitted to EPA by Settling Party.

XV. PUBLIC COMMENT

42. This Settlement Agreement shall be subject to a public comment period of at least 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may withhold its consent or seek to modify this Settlement Agreement if comments received disclose facts or considerations that indicate that this Settlement Agreement is inappropriate, improper, or inadequate.

XVI. EFFECTIVE DATE

43. The Effective Date of this Settlement Agreement shall be the date upon which EPA issues written notice that the public comment period pursuant to Paragraph 42 has closed and the United States has determined not to withhold its consent or seek to modify this Settlement Agreement based on the comments received, if any; provided, however, that if the

Property Sale Date does not occur within 60 days after the Effective Date, this Settlement Agreement is voidable at the sole discretion of EPA.

IT IS SO AGREED:

U.S. ENVIRONMENTAL PROTECTION AGENCY:

Pat
Evangelista  Digitally signed by Pat
Evangelista
Date: 2023.06.05
09:23:37 -04'00'

Dated

Pat Evangelista, Director
Superfund and Emergency Management Division, Region 2

Signature Page for Settlement Agreement Regarding Marko Engraving & Art Corp. Site

FOR *Ljubow Melnitschenko*
Ljubow Melnitschenko

5/31/23
Dated

Owner
[Name]
[Title]
[Company]
[Address]

Appendix B

Record and Return

Prepared by: _____
Olga Pappas
Assistant Regional Counsel

NOTICE OF DISCHARGE AND RELEASE OF FEDERAL LIEN

(TO BE FILED IN THE DISCHARGE OF MORTGAGE BOOK)

WHEREAS by Notice of Federal Lien, dated July 28, 2021, and recorded in the office of the Bergen County Clerk on July 29, 2021, the United States of America perfected a lien pursuant to Section 107(l) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9607(l), on that certain parcel of real property owned by Ljubow Melnitschenko located at 429-439 Fairview Avenue, Borough of Fairview, Bergen County, New Jersey, designated as Block 217, Lot 21 on the Tax map of Fairview in effect at such time (the “Federal Lien”); and

WHEREAS, the United States has determined to release the Federal Lien;

NOW THEREFORE, the Federal Lien is hereby discharged and released.

IN WITNESS WHEREOF, the United States has caused this instrument to be executed through the United States Environmental Protection Agency, and its attorney, in his official capacity as Regional Counsel of the United States Environmental Protection Agency, Region 2 to effect the discharge and release of the aforesaid Federal Lien, and consents that this Release of Federal Lien may be filed of record.

Dated at New York, New York, this _____ day of _____, 2023.

UNITED STATES OF AMERICA and
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

United States of America)
State of New York) ss.
County of New York)
By: _____
Paul Simon
Regional Counsel
United States Environmental Protection Agency
Region 2
290 Broadway - 17th Floor
New York, New York 10007

On this _____ day of _____, 2023 there appeared personally before me, the undersigned Notary, Paul Simon, known to me to be the Regional Counsel of the United States Environmental Protection Agency, Region 2, and he acknowledged that he signed the foregoing RELEASE OF LIEN in a representative capacity as the free and voluntary act and deed of the United States and its said Agency for the uses and purposes therein mentioned. GIVEN under my hand and official seal the day and year first stated above.

My Commission Expires: _____

NOTARY PUBLIC

Appendix C
List of the financial documents submitted to EPA by Settling Party

1. August 16, 2022, Ability to Pay Submission to EPA
 - a. INDIPAY Data Request Form
2. November 28, 2022, Email from T.J. Legg, representing Ljubow Melnitschenko, providing an update on the status of the property sale and new mortgages.
3. November 30, 2022, Email from T.J. Legg, representing Ljubow Melnitschenko, confirming which properties Settling Party recently mortgaged.
4. December 1, 2022, Email from T.J. Legg, representing Ljubow Melnitschenko, confirming new mortgages against her other properties were included in Settling Party's INDIPAY Data Request Form.
5. February 7, 2023, Email from T.J. Legg, representing Ljubow Melnitschenko, providing an update on the foreclosure action regarding the Site property.