STATE OF COLORADO

Bill Ritter, Jr., Governor
Martha E. Rudolph, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

January 13, 2010

Andy Wilzoch
Premier Eurocase, Inc.
12000 E. 56th Ave., #K
Denver, CO 80239

Certified Mail Number: 7005 1820 0000 3208 1029

RE: Final Compliance Order on Consent, Number: SC-100113-1

Dear Mr. Wilzoch,

Enclosed for Premier Eurocase, Inc.'s records, you will find Premier's copy, with original signatures, of the recently executed Compliance Order on Consent. Please remember that this agreement is subject to a thirty-day public comment period, as further described in paragraph 25 of the document. If the Division receives any comments during this period, we will contact your office to discuss. Also, please be advised that the first page of the Order was changed for the purpose of placing the assigned Order Number on the final document.

If you have any questions, please do not hesitate to contact me at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Michael Harris
Enforcement Unit
WATER QUALITY CONTROL DIVISION

Enclosure(s)

cc: Denver Environmental Health

ec: Aaron Urdiales, EPA Region VIII
Nathan Moore, Permits Section, CDPHE
Dick Parachini, Watershed Program, CDPHE
Carolyn Schachterle, OPA, CDPHE

COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

WATER QUALITY CONTROL DIVISION

COMPLIANCE ORDER ON CONSENT **NUMBER: SC-100113-1**

IN THE MATTER OF: **PREMIER EUROCASE, INC.**
CDPS PERMIT NO. COR-010000
CERTIFICATION NO. COR-011012
DENVER COUNTY, COLORADO

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Compliance Order on Consent ("Consent Order"), pursuant to the Division's authority under §§25-8-602 and 605, C.R.S. of the Colorado Water Quality Control Act ("the Act"), §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Premier Eurocase, Inc. ("Premier"). The Division and Premier may be referred to collectively as "the Parties."

STATEMENT OF PURPOSE

1. The mutual objectives of the Parties in entering into this Consent Order are to resolve, without litigation, civil penalties for the alleged violations cited herein and in the Notice of Violation / Cease and Desist Order / Clean-up Order, Number: SO-080729-2, issued to Premier on July 29, 2008.

DIVISION'S FINDINGS OF FACT AND DETERMINATION OF VIOLATIONS

2. Based upon the Division's investigation into and review of the compliance issues identified herein, and in accordance with §§25-8-602 and 605, C.R.S., the Division has made the following determinations regarding Premier and Premier's compliance with the Act and its stormwater permit certification for industrial activity.

3. At all times relevant to the violations cited herein, Premier was a Colorado corporation in good standing and registered to conduct business in the State of Colorado.

4. Premier is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).

5. Premier operates an industrial facility involved in the manufacturing and assembly of store fixtures, which is located at 12000 E. 56th Street, in the City and County of Denver, Colorado (the "Facility").

6. The Facility is covered under the Colorado Discharge Permit System ("CDPS") General Permit, Number COR-010000, for Stormwater Discharges Associated with Light Industrial Activity (the "Permit").

7. On September 5, 2000, the Division provided Premier Certification Number COR-011012 authorizing Premier to discharge stormwater from the industrial activities associated with the Facility to Sand Creek under the terms and conditions of the Permit. Certification Number COR-011012 became effective September 5, 2000, was renewed on July 1, 2001 and again on July 1, 2006, and remains in effect until June 30, 2011 or until Premier inactivates Permit coverage.

8. Sand Creek is "state waters" as defined by §25-8-103(19), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2 (102).

9. Pursuant to 5 CCR 1002-61, §61.8, a permittee must comply with all the terms and conditions of a permit and violators of the terms and conditions specified in a permit may be subject to civil and criminal liability pursuant to §§25-8-601 through 612, C.R.S.

10. On February 7, 2007, a representative from the Denver Department of Environmental Health (the "Inspector") conducted an on-site inspection of the Facility on behalf of the Division, pursuant to the Division's authority under §25-8-306, C.R.S., to determine Premier's compliance with the Water Quality Control Act and the Permit. During the inspection, the Inspector interviewed Facility representatives, reviewed the Facility's stormwater management system records, and performed a physical inspection of the Facility.

Deficient and/or Incomplete Stormwater Management Plan

11. Pursuant to Part I. B. of the Permit, Premier is required to prepare a Stormwater Management Plan ("SWMP") for the Facility that identifies Best Management Practices ("BMPs") that, when implemented, will meet the terms and conditions of the Permit. The SWMP is required to identify potential sources of pollution, which may be reasonably expected to affect the quality of stormwater discharges associated with industrial activity from the Facility. In addition, the plan is required to describe and ensure the implementation of BMPs, which will be used to reduce the pollutants in stormwater discharges associated with industrial activity.

12. Pursuant to Part I. B. of the Permit, the SWMP shall include, at a minimum, the following items:

    a. Industrial Activity Description – Each plan shall include a narrative description of the industrial activity taking place at the site.

    b. Site Map – Each plan shall include a site map indicating an outline of the drainage area of each stormwater outfall, each existing structural control measure to reduce pollutants in stormwater runoff, and surface water bodies.

    c. Stormwater Management Controls – Each plan shall include a description of stormwater management controls and shall address the following minimum components:

i. SWMP Administrator – Each SWMP shall identify a specific individual(s) who is responsible for developing the SWMP and assisting the plant manager in its implementation, maintenance, and revision.

ii. Identification of Potential Pollutant Sources and Best Management Practices – Each SWMP shall identify potential sources of pollutants and describe BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. Each description of BMPs shall include stormwater diversions, materials handling and spill prevention, sediment and erosion prevention, and other pollution prevention measures.

iii. Sampling Information – Each plan shall include a summary of any existing discharge sampling data describing pollutants in stormwater discharges and a description of each proposed sampling point, should monitoring be required.

iv. Preventive Maintenance – Each plan shall include a preventive maintenance program that involves inspection and maintenance of stormwater management devices, as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

v. Good Housekeeping – Each plan shall address cleaning and maintenance schedules, trash disposal and collection practices, grounds maintenance, etc.

vi. Spill Prevention and Response Procedures – Each plan shall identify areas where potential spills can occur, with their accompanying drainage points. Procedures for cleaning up spills shall be identified.

vii. Employee Training – Each plan shall include procedures for conducting employee training that addresses topics such as spill response, good housekeeping, material management practices, and plant operation and design features. Each plan shall identify periodic dates for such training.

viii. Identification of Discharges other than Stormwater – The plan shall include a description of the results of an evaluation for the presence of discharges other than stormwater, including the method used, the date of evaluation, and the onsite drainage points that were observed.

d. Comprehensive Inspections – Each SWMP shall identify qualified personnel that will inspect designated equipment and plant areas. Each SWMP shall specify the procedures and intervals of the comprehensive inspections.

e. Consistency with Other Plans – SWMPs may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under section 311 of the Clean Water Act, or BMP Programs otherwise required by a CDPS permit.

13. During the February 7, 2007 inspection, the Inspector reviewed the Facility's SWMP and identified deficiencies in the SWMP as described in paragraphs 13(a–c) below:

    a. The SWMP did not identify a SWMP administrator.

    b. The SWMP did not include a site map.

    c. The section of the SWMP covering employee training did not address topics such as spill response, good housekeeping and material management practices. Additionally, the SWMP did not identify periodic dates of training.

14. On November 5, 2007, in response to the February 7, 2007 inspection, Premier submitted a revised SWMP to the Division for review. In-office review of the revised SWMP identified deficiencies in the SWMP as described in paragraphs 14(a–c) below:

    a. The section of the SWMP covering employee training did not identify periodic dates of training.

    b. The stormwater conveyance system on the site was not evaluated for the presence of discharges other than stormwater.

    c. The SWMP did not identify qualified personnel who would inspect designated equipment and plant areas.

15. The Division has determined that Premier failed to prepare and maintain a complete and accurate SWMP for the Facility.

16. Premier's failure to maintain a complete and accurate SWMP for the Facility constitutes violation(s) of Part I. B. of the Permit.

Failure to Implement and/or Maintain
Best Management Practices to Protect Stormwater Runoff

17. Pursuant to Part I. B. 3. b. of the Permit, Premier is required to identify potential sources of pollutants at the Facility and implement BMPs to reduce the potential of these sources to contribute pollutants to stormwater discharges. The Permit specifies that where stormwater pollution potential exists, appropriate preventative measures must be taken and documented.

18. The Division has determined that Premier failed to implement and/or maintain functional BMPs at the Facility as described in paragraphs 18(a-d) below:

    a. During the February 7, 2007 inspection, the Inspector observed no BMPs in place to divert stormwater around potential pollution sources. Stormwater was being allowed to flow through sawdust and other debris before entering the storm drain.

b. During the February 7, 2007 inspection, the Inspector observed the "East Cyclone" at the Facility. The SWMP stated that a canvas boot and cover would be implemented to keep sawdust contained within the dumpster. No canvas boot or cover was observed in place. A significant amount of sawdust and other debris was observed surrounding the East Cyclone with no BMPs in place to clean up the sawdust and debris or to prevent it from discharging to the storm drain during rain or snowmelt events. Consequently, sawdust and debris were observed in the storm drain adjacent to the East Cyclone.

c. During the February 7, 2007 inspection, the Inspector observed the "West Cyclone" at the Facility. The West Cyclone was positioned directly over the storm drain with no dumpster or containment device in place. Sawdust was piled on top of the storm drain and observed surrounding the West Cyclone with no BMPs in place to clean up the sawdust or to prevent it from discharging to the storm drain during rain or snowmelt events. Consequently, sawdust and debris were observed in the storm drain directly under and adjacent to the East Cyclone

d. During the February 7, 2007 inspection, the Inspector observed debris littered along the west end of the facility. No BMPs were observed in place to clean up the debris or to prevent stormwater from commingling with the debris before discharging to the adjacent storm drain.

19. Premier's failure to implement and maintain BMPs to protect stormwater quality at the Facility constitutes violation(s) of Part I. B. 3. b. of the Permit.

ORDER AND AGREEMENT

20. Based on the foregoing factual and legal determinations, pursuant to its authority under §§25-8-602 and 605, C.R.S., and in satisfaction of the civil penalties associated with the alleged violations cited herein and in the July 29, 2008 Notice of Violation / Cease and Desist Order / Clean-up Order (Number SO-080729-2), the Division orders Premier to comply with all provisions of this Consent Order, including all requirements set forth below.

21. Premier agrees to the terms and conditions of this Consent Order. Premier agrees that this Consent Order constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602 and 605, C.R.S., and is an enforceable requirement of the Act. Premier also agrees not to challenge directly or collaterally, in any judicial or administrative proceeding brought by the Division or by Premier against the Division:

    a. The issuance of this Consent Order;
    b. The factual and legal determinations made by the Division herein; and
    c. The Division's authority to bring, or the court's jurisdiction to hear, any action to enforce the terms of this Consent Order under the Act.

22. Notwithstanding the above, Premier does not admit to any of the factual or legal determinations made by the Division herein, and any action undertaken by Premier pursuant to this Consent Order shall not constitute evidence of fault by Premier with respect to the conditions of the Facility.

CIVIL PENALTY

23. Based upon the application of the Division's Stormwater Civil Penalty Policy (January 25, 2007), and consistent with Departmental policies for violations of the Act, Premier shall pay Forty Five Thousand Seventy Six Dollars ($45,076.00) in civil penalties. The Division intends to petition the Executive Director, or his designee, to impose the Forty Five Thousand Seventy Six Dollar ($45,076.00) civil penalty for the above violations and Premier agrees to make the payment within thirty (30) calendar days of the issuance of a Penalty Order by the Executive Director or his designee. Method of payment shall be by certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," and delivered to:

    Michael Harris
    Colorado Department of Public Health and Environment
    Water Quality Control Division
    Mail Code: WQCD-CADM-B2
    4300 Cherry Creek Drive South
    Denver, Colorado 80246-1530

SCOPE AND EFFECT OF CONSENT ORDER

24. The Parties agree and acknowledge that this Consent Order constitutes a full and final settlement of the civil penalties associated with the violations alleged herein and in the July 29, 2008 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-080729-2).

25. This Consent Order is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Premier each reserve the right to withdraw consent to this Consent Order if comments received during the thirty-day period result in any proposed modification to the Consent Order.

26. This Consent Order constitutes a final agency order or action upon the date when the Executive Director or his designee imposes the civil penalty following the public comment period. Any violation of the provisions of this Consent Order by Premier, including any false certifications, shall be a violation of a final order or action of the Division for the purpose of §25-8-608, C.R.S., and may result in the assessment of civil penalties of up to ten thousand dollars per day for each day during which such violation occurs.

27. Notwithstanding paragraph 22 above, the violations described in this Consent Order will constitute part of Premier's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Premier. Premier agrees not to challenge the use of the cited violations for any such purpose.

LIMITATIONS, RELEASES AND RESERVATION OF RIGHTS AND LIABILITY

28. Upon the effective date of this Consent Order, and during its term, this Consent Order shall stand in lieu of any other enforcement action by the Division with respect to civil penalties for the specific instances of violations cited herein and in the July 29, 2008 Notice of Violation / Cease and Desist Order / Clean-up Order (Number: SO-080729-2). The Division reserves the right to bring any action to enforce this Consent Order, including actions for penalties or the collection thereof, and/or injunctive relief.

29. This Consent Order does not grant any release of liability for any violations not specifically cited herein.

30. Nothing in this Consent Order shall preclude the Division from imposing additional requirements in the event that new information is discovered that indicates such requirements are necessary to protect human health or the environment.

31. Upon the effective date of this Consent Order, Premier releases and covenants not to sue the State of Colorado or its employees, agents or representatives as to all common law or statutory claims or counterclaims arising from, or relating to, the violations of the Act specifically addressed herein.

32. Nothing in this Consent Order shall constitute an express or implied waiver of immunity otherwise applicable to the State of Colorado, its employees, agents or representatives.

NOTICES

33. Unless otherwise specified, any report, notice or other communication required under the Consent Order shall be sent to:

For the Division:

Colorado Department of Public Health and Environment
Water Quality Control Division / WQCD-CADM-B2
Attention: Michael Harris
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: 303.692.3598
E-mail: michael.harris@state.co.us

For Premier:

Andy Wilzoch
Premier Eurocase, Inc.
12000 E. 56th Ave., #K
Denver, CO 80239
Telephone: 303.373.9718
E-mail: awilzoch@premiereruocase.com

MODIFICATIONS

34. This Consent Order may be modified only upon mutual written agreement of the Parties.

NOTICE OF EFFECTIVE DATE

35. This Consent Order shall be fully effective, enforceable and constitute a final agency action upon the date when the Executive Director or his designee imposes the civil penalty. If the penalty as described in this Consent Order is not imposed, or an alternate penalty is imposed, this Consent Order becomes null and void.

BINDING EFFECT AND AUTHORIZATION TO SIGN

36. This Consent Order is binding upon Premier and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this Consent Order. In the event that a party does not sign this Consent Order within thirty (30) calendar days of the other party's signature, this Consent Order becomes null and void. This Consent Order may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

FOR PREMIER EUROCASE, INC.:

_____ Date: 01-04-10
Andy Wilzoch, President

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT:

Lori M. Gerzina Date: 01-13-10
Lori M. Gerzina, Manager
Compliance Assurance Section
WATER QUALITY CONTROL DIVISION