

BEFORE THE  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
STATE OF CALIFORNIA

In the Matter of the Administrative  
Complainant of:

JAMES DA'UNNO, Operator  
d.b.a. GRAND AMERICAN TIRE,  
  
Respondent.

Board No. 2001-22AC

OAH No. L2001070129

**FINAL DECISION**

This matter came on regularly for hearing on January 4, 2002 at Los Angeles, California before David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. By stipulation, the matter was conducted telephonically. Complainant California Integrated Waste Management Board (CIWMB) was represented by Lynda Williams, Staff Counsel. Respondent James Da'Unno was represented by Robert Sage, attorney at law.

By agreement of counsel for all parties, the matter was presented as follows: Respondent admits the allegations of the Statement of Facts in the Administrative Complaint and, based thereon, the parties stipulated that a Proposed Decision would be issued including imposition of a civil penalty of \$2000, to be paid \$1000 within 30 days of the effective date of the CIWMB Decision herein, and \$100 at the end of each month thereafter, until paid in full. The matter was then submitted for decision.

**FACTUAL FINDINGS**

Based upon the agreement of the parties, the Administrative Law Judge finds the following facts:

1. The Administrative Complaint was issued by CIWMB to Respondent, the operator of Grand American Tire, a waste tire hauler, based upon section 42962 of the Public Resources Code (PRC), which authorizes the CIWMB to administratively impose penalties for violations of any provision of PRC sections 42950 et. seq. The CIWMB has authority to

regulate and conduct enforcement actions regarding waste tire haulers within the State of California under PRC section 42950 et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. Respondent is the operator of Grand American Tire. Neither Respondent nor Grand American Tire held a valid waste tire hauler registration from the CIWMB at the times mentioned below.

3. On August 20, 1999, at the business location of Grand American Tire, trucks loaded with more than four waste tires were observed parked on Grand American Tire property that did not have current CIWMB waste tire hauler decals. The operator admitted he was not a registered waste tire hauler. He stated that the tires were being stored at the site and hauling would be done by a registered waste tire hauler.

4. In a "Letter of Violation" (LOV) dated August 23, 1999 from the CIWMB, Respondent was informed of the need to be a registered waste tire hauler if hauling more than four waste tires. The LOV also informed Respondent that if he continued to haul waste tires without becoming registered, the CIWMB might take enforcement action.

5. In September 2000, the County of Los Angeles Sanitation District notified the CIWMB that Grand American Tire had hauled waste tires to the Calabasas Landfill using a truck, California license plate 5L45167, without a valid CIWMB waste tire hauler registration.

6. In a "Letter of Violation" (LOV) dated September 20, 2000 from the CIWMB, Respondent was informed of the need to be a registered waste tire hauler if hauling more than four waste tires. The LOV also informed Respondent that if he continued to haul waste tires without becoming registered, the CIWMB might take enforcement action.

7. On November 13, 2000, at the business location of Grand American Tire, an unregistered truck loaded with approximately 300 waste tires was parked on the lot. The vehicles license plate number 5V57739 was registered to Alpeco Enterprises. Respondent is agent for service of process for Alpeco Enterprises. He was not available at the site and no manifests were available for review.

8. On November 20, 2000, the CIWMB informed Respondent in writing that he needed to become registered with the CIWMB if he wanted to haul waste tires, and provided the name and telephone number of CIWMB staff who could help him with this process. The fax also included a copy of the September 20, 2000 LOV as well as a listing of all CIWMB registered haulers in Los Angeles County.

9. On March 1, 2001, the Los Angeles County Sanitation District faxed to the CIWMB a computer generated report documenting that Grand American Tire had hauled waste tires to the Calabasas Landfill eight times since January 1, 2001. This act of hauling

waste tires without CIWMB registration is in violation of PRC section 42951—Transporting wastes without holding a valid waste tire hauling registration.

10. After the events set forth above, Respondent began the process of obtaining a waste tire hauler registration. While in that process, he only used other registered waste tire haulers for his business. Respondent was issued a waste tire hauler registration by the CIWMB on December 8, 2001.

### LEGAL CONCLUSIONS AND DISCUSSION

Based upon the agreement of the parties and upon the foregoing factual findings, the Administrative Law Judges makes the following legal conclusions:

1. Respondent, as operator of Grand American Tire, is in violation of PRC, section 42951, which makes it unlawful to engage in the transportation of waste tires unless holding a valid waste tire hauler Registration, as set forth in Findings 2 through 9, above.

2. The CIWMB's authority to assess civil penalties administratively against an unregistered waste tire hauler, is set forth in PRC section 42962, which states:

“(b) In addition to the civil penalty which may be imposed pursuant to subdivision (a), the board may impose civil penalties administratively in an amount not to exceed five thousand dollars (\$5,000.00) for each separate violation of a separate provision or for continuing violations for each day that violation continues, for any person who intentionally or negligently violated any permit, rule, regulation, standard, or requirement issued adopted pursuant to this chapter. . . .”

Under this section, Respondent, as operator of Grand American Tire, is subject to a separate administrative civil penalty of up to \$5,000.00, for each occasion upon which it has hauled waste tires without a valid waste tire hauler registration.

3. In setting an appropriate civil penalty, consideration is given to: the nature, extent and gravity of the violations by Respondent as operator of Grand American Tire; the efforts by Respondent to comply with the law while applying for his registration; that Respondent has now obtained a waste tire hauler registration; and that Respondent cooperated in the resolution of this matter.

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ORDER

Based upon the agreement of the parties, the following Order is hereby made:

A civil penalty of \$2000 is imposed against Respondent James Da'Unno, as operator of Grand American Tire, to be paid \$1000 within 30 days of the effective date of the CIWMB Decision herein, and \$100 at the end of each month thereafter, until paid in full

DATED: \_\_\_\_\_

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Linda Moulton-Patterson,  
Chairperson  
California Integrated Waste Management Board