

IN THE PROVINCIAL COURT OF ALBERTA

Between:

HER MAJESTY THE QUEEN

-and-

SUPERIOR CONCRETE SYSTEMS LYD., LOUTFI ABOUMRAD, ALBERTA CHROME &
GRINDING (2001) LTD., ZIAD EL-BITTAR, AMARA INVESTMENT CORP.,
and HUSSEIN AMERY

Accused

AGREED STATEMENT OF FACTS

For the Crown

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Crown Prosecutor
Alberta Justice - Specialized Prosecutions
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For the Defence

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AGREED STATEMENT OF FACTS

1. The following numbered paragraphs contain facts that are alleged by the Crown and admitted by the Accused, SUPERIOR CONCRETE SYSTEMS LTD.
2. It is agreed that these facts are admitted for the purpose of dispensing with formal proof thereof in respect of a guilty plea by SUPERIOR CONCRETE SYSTEMS LTD before this Honourable Court to the following charge:

Count 3: Between April 1 2017 and May 4, 2017 at or near Calgary, in the Province of Alberta, did dispose of hazardous waste otherwise than in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act* contrary to section 192 of the *Environmental Protection and Enhancement Act* and did thereby commit an offence contrary to section 227(j) of the *Environmental Protection and Enhancement Act*.
3. Events described in count 3 of Information 190341362P1 occurred in Calgary in the Province of Alberta.
4. SUPERIOR CONCRETE SYSTEMS LTD. (SUPERIOR CONCRETE) is a validly subsisting corporation, registered in the Province of Alberta, with a registered office located in Calgary, Alberta.
5. At all material times, LOUTFI ABOUMRAD owned and operated SUPERIOR CONCRETE. The business of SUPERIOR residential and commercial construction and excavation.
6. ALBERTA CHROME & GRINDING (2001) LTD. (AC&G) is an industrial chrome electroplating facility located at 4726 - 1st Street S.E. Calgary Alberta.
7. HUSSEIN AMERY (AMERY) was at all material times a shareholder and a Managing Director of AMARA INVESTMENT CORP. (AMARA) incorporated in Alberta in 1992 and carrying on business in Calgary, with a registered office at 112, 2675 - 36th St. NE Calgary Alberta.
6. On February 16, 2012 AMARA entered into a Lease with the City of Calgary for the license to use the lands located 4304 MacLeod Trail Southwest, Calgary Alberta ("the Site"). The lands were primarily used for the parking of motor vehicles.

The Site

7. The Site located at 4304 MacLeod Trail Southwest, Calgary Alberta is a 25m by 25m undeveloped lot without vegetation or trees with a significant natural slope from west to east of approximately 3 m elevation. The Site is bordered to the north by a metal retaining wall and 42nd Avenue; an asphalt parking lot to the west used by the multi-tenant commercial building to the

south; and a commercial property, the Redag Centre, at 107 42 Ave SW, located immediately east and lower in elevation. A gravel and paved alley provided access to the Site at the southeast corner. Attached at Tab A is a Site Plan for the lands.

8. At all material times the Site was owned by the City of Calgary and leased to AMARA.

Contract with AMARA

9. Pursuant to a contract dated September 12, 2016 AMARA hired SUPERIOR CONCRETE to build up the Site with loads of imported fill to reduce the steep slope and make it more usable for motor vehicle access and parking.

10. Between October and November 2016 approximately 10-12 truckloads of clean gravel was collected from the Tsuu T'ina Reserve by SUPERIOR employees and graded over the Site. In April 2017 AMERY advised SUPERIOR CONCRETE that more fill was necessary because the Site was rough and muddy. AMERY directed ABOUMRAD to proceed with the additional grading work. Attached at Tab B are photos of the Site on April 5, 2017.

Contract with ALBERTA CHROME

11. In early April 2017 SUPERIOR CONCRETE was hired by AC&G to excavate around and below a chrome plating tank and build a frame and pour concrete for a replacement tank and floor. The scope of work included hauling away the excavated material (concrete floor and pit run). ABOUMRAD, attended at the AC&G facility beforehand to review the scope of work and provide a verbal estimate, which he did.

12. SUPERIOR CONCRETE started work at AC&G on April 7, 2017. The work took SUPERIOR about a week to complete. ABOUMRAD attended AC&G several times during this period to supervise the excavation and the completion of work.

13. The broken up concrete from the excavation of the floor and tank frame and the pit run excavated from below the floor of the facility was hauled away from AC&G by SUPERIOR CONCRETE as part of the scope of work.

14. Between April 9-10, 2017 SUPERIOR CONCRETE imported approximately 1 ½ to 2 truck loads of the material excavated from AC&G onto the Site and graded it all over the top. The fill was held in place by 5 intermodal shipping containers purchased by AMARA/AMERY and used as retaining walls for the imported fill.

15. SUPERIOR CONCRETE submitted an invoice to AC&G for \$13,650 which was paid April 17, 2017 by cheque.

16. Given the nature of the industrial chrome electroplating and the age and deteriorated condition of the AC&G facility, ABOUMRAD should have known that the excavated concrete and pit run ("the excavated material") could be hazardous waste and must be disposed in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act* RSA c. E-12.

17. ABOUMRAD did not consider the potential hazardous nature of the excavated material with AG&G as part of the scope of work; and disposed of the excavated material without consideration of the potential hazardous nature of the material. SUPERIOR CONCRETE admits that it did not dispose of the excavated material in accordance with an approval, a code of practice or a registration or as otherwise provided for under the *Environmental Protection and Enhancement Act*.

18. The material, excavated by SUPERIOR CONCRETE from AC&G, was confirmed by Golder Associates Ltd. (Golder), environmental engineers, to be contaminated with chromium plating compounds.

City of Calgary

19. City of Calgary officials became aware of the earthworks at the Site in November 2016 as a result of a 311 complaint by an individual representing the Redag Centre to the east. Because of the absence of developmental permission, concerns about stability of the imported fill, and drainage flow problems, the City sent AMERY an email dated November 8, 2016 directing him to stop work without prior consultation with City officials. On November 22, 2016 the City of Calgary sent AMERY a letter demanding AMERY to stop work on the lands without the City's prior written approval. AMERY did not communicate the City stop work order to ABOUMRAD.

Precipitation Event

20. Over April 12-13, 2017 as well as over the following week, it rained in Calgary. The precipitation caused a yellow-green liquid to flow off the Site onto the property of the Redag Centre. A yellowish green substance remained visible on the City Lands after the soil dried. Attached at Tab 6 are photos of the Site on April 20 and 26, 2017.

Investigation into Yellow-Green Substance

21. A 311 call was made to the City of Calgary on April 13, 2017. The Calgary Fire Department attended the Site and observed the unknown yellow-green substance in the ground water and in the soil. On or about April 19, 2017, Alberta Environment and Parks (AEP) became aware of the unknown yellow green substance on the City of Calgary Lands as well in the ground water flowing off the Lands onto the property of the Redag Centre. AEP commenced an investigation.

22. On April 26, 2017 Golder Associates Ltd., environmental engineers, were retained by the City of Calgary to investigate the nature of the unknown substance. Through a series of subsurface investigations the yellow substance was confirmed on May 3, 2017 to be a chrome plating compound and wide-spread chromium impacts in the fill were present at concentrations that exceeded the Alberta (2016) Tier 1 Soil and Groundwater Remediation Guidelines for residential and/or commercial use. Investigations also revealed that some of the chromium-impacted soils were consistently elevated in total chromium and hexavalent chromium and classified as hazardous waste ¹ due to leachable chromium concentrations and required disposal to a Class 1 hazardous waste landfill. Attached at Tab D are photos of the Site on May 2, 4, 12, 2017.

23. The source of the hazardous waste on the Site was the chromium-impacted soil excavated from AC&G which was imported and graded over the top of the Lands by SUPERIOR CONCRETE in April 2017.

24. The Site owned by the City of Calgary is not a hazardous waste management facility.

Reclamation of the Lands

25. Golder was hired by the City of Calgary to remediate the impacted lands. Over the period of May 30 to July 7, 2017 Golder supervised the remedial excavation works which resulted in the removal and off-site disposal of 1,350.3 tonnes of chromium-impacted soil to landfill, of which 728.7 tonnes was disposed as hazardous waste and the remaining 621.6 tonnes disposed as contaminated but non-hazardous waste. The excavation works extended over the entire area of the site. Attached at Tab E is an aerial view of the Site after the remedial excavation.

26. Confirmatory soil sampling verified that total and hexavalent chromium concentrations at the final extends of remedial excavation were below the applicable AB Tier 1 Guidelines.

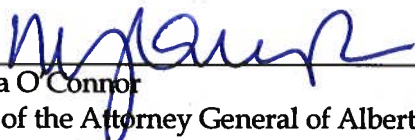
26. The financial cost of the remediation to the City of Calgary was high.


¹ As defined in the *Environmental Protection and Enhancement Act* RSA c. E-12
pg. 5

Agreement


27. SUPERIOR CONCRETE admits the facts set out above in support of the guilty plea to section 192 of the *Environmental Protection and Enhancement Act* RSA c. E-12, sentencing and a victim fine surcharge pursuant to section 8 of the *Victims of Crime Act*, RSA 2000 c. V-3 and section 2 of the *Victims of Crime Regulation*, AR 63-2004 RSA 2000 c. V-3.

ALL OF WHICH IS ADMITTED AS FACT,
DATED this day of March 23, 2021 in Calgary, Alberta.


Martha O'Connor
Agent of the Attorney General of Alberta


Michael Swanson
Counsel for Loutfi Aboumrad and
Superior Concrete Systems Ltd.

Loutfi Aboumrad,
Accused


Loutfi Aboumrad, per
Superior Concrete Systems
Ltd.,
Accused


CRIMINAL CODE SECTION 606

606(1.1) A court may accept a plea of guilty only if it is satisfied that the accused:

- (a) Is making the plea voluntarily; and
- (b) Understands:
 - (i) That the plea is an admission of the essential elements of the offence
 - (ii) The nature and consequences of the plea, and
 - (iii) That the court is not bound by any agreement made between the accused and the prosecutor.

I ACKNOWLEDGE HAVING BEEN FULLY ADVISED OF THE ABOVE BY MY COUNSEL

Loutfi Aboumrad,
Accused


Loutfi Aboumrad,
Per Superior Concrete Systems Ltd.
Accused

TAB A

SCHEDULE "B"

SITE PLAN



File No: 4304 MACLEOD TR SW-4

 Subject Area (5310 sq. ft.)

 City Owned Lands



TAB B

CSP000156-021 April 5, 2017 – 4304 MacLeod Trail SW, Calgary, AB



CSP000372 April 5, 2017 – 4304 MacLeod Trail SW, Calgary, AB



CSP000372-032

CSP000372 April 5, 2017 – 4304 MacLeod Trail SW, Calgary, AB



TAB C

CSP000372 – April 20, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-040

CSP000372 – April 20, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-046



CSP000372-063



CSP000372-059

CSP000372 – April 26, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-072

CSP000372 – April 26, 2017 – 4304 MacLeod Tr SW, Calgary AB

Date & Time: Wed Apr 26 08:02:23 MDT 2017
Position: 11 N 705939 5655668
Altitude: 1064m
Datum: WGS-84
Azimuth/Bearing: 039° N39E 0693mils (True)
Elevation Angle: -12.5°
Horizon Angle: -01.0°
Zoom: 1X



CSP000372-078

CSP000372 – May 2, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-084

CSP000372 – May 2, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-085

CSP000372 – May 4, 2017 – 4304 MacLeod Tr SW, Calgary AB



CSP000372-089



CSP000372-088

CSP000372 – May 12, 2017 – 4304 MacLeod Tr SW, Calgary AB

Date & Time: Fri May 12 08:19:31 MDT 2017
Position: 11 N 705932 5655668
Altitude: 1048m
Datum: WGS-84
Azimuth/Bearing: 211° S31W 3751mils (True)
Elevation Angle: +03.4°
Horizon Angle: +00.5°
Zoom: 1X



CSP000372-093



CSP000372-095



CSP000372-098



CSP000372-100

TAB E

Google Street View image Aug. 31, 2017 – 4304 MacLeod Trail SW, Calgary, AB

