

IN THE ALBERTA COURT OF JUSTICE
CRIMINAL DIVISION

Between:

HIS MAJESTY THE KING

and

CALECO ENTERPRISES LTD. O/A S.C.A.T. PEST CONTROL



AGREED STATEMENT OF FACTS

1. On Information 240666990P1, Caleco Enterprises Ltd. O/A S.C.A.T. Pest Control stands charged that:

Count 1: On or about August 30, 2022, at or near Vermilion, in the Province of Alberta, did sell, distribute, use, apply or handle a pesticide except in accordance with the label for that pesticide contrary to section 163(1) 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*.

2. Caleco Enterprises Ltd., operating as S.C.A.T. Pest Control (SCAT), is a small pest control operation located in Kitscoty, Alberta and operating in east central Alberta. It is a Saskatchewan corporation, extra-provincially registered in Alberta. SCAT is owned and operated by its sole Director, Denise Posein. SCAT also employs Ms. Posein's son, Jordan as an assistant. Ms. Posein took over operation of SCAT after the death of her husband in September 2021.

3. On April 12, 2021, Caleco Enterprises Ltd. received Pesticide Registration No. 473665-00-00 to provide pesticide services for "Structural and Special: Exterior Rodent Control" pesticide classes. Denise Posein holds a Pesticide Applicator Certificate of

Qualification, which allows her to purchase and apply structural classes of pesticides. Jordan Posein does not.

4. On August 30, 2022, Denise and Jordan Posein attended the Vermillion campus of Lakeland College to do mouse control as part of SCAT's monthly contract with the College. While there, staff asked them to assist with an additional issue - an ant problem in the Emergency Training Centre Building (ETC). The ETC is primarily used to administer Firefighter training but also houses Lakeland College's Pesticide Program office as well as other staff and administrators for the College.

5. In order to treat the ants, SCAT agreed to provide spraying inside of the ETC. Jordan Posein conducted the spraying that day, using Temprid SC, a commercial Schedule 2 Pesticide which is regulated in Alberta by a number of pieces of legislation. Its active ingredients are a mix of Imidacloprid and Beta-Cyfluthrin.

6. A number of rooms in the ETC were treated with Temprid SC. The College Manager estimated it was up to 60% of the rooms in the building including offices and classrooms and storage rooms, or approximately 11 rooms. Mr. Posein applied the pesticide by walking around the perimeter of the rooms and applying it to the baseboards, as well as other problem areas identified by staff. One of the rooms that was treated was Lakeland College's Pesticide Department. SCAT treated the office while three employees were inside of it.

7. In order to comply with regulatory requirements, pesticides must be applied in accordance with the label approved of by the Pest Management Regulatory Agency (a division of Health Canada) (PMRA). Temprid SC is registered as a commercial pesticide with the PMRA (PCP #32524). The Temprid SC label provides the following:

- Bystanders and animals must not be present during application of Temprid SC.
- Ventilate treated areas either by opening windows and doors or through use of air exchange/ventilation systems confirmed to be operational.
- DO NOT allow re-entry into indoor treated areas during the restricted entry interval (REI) of 6 hours.
- Apply this product only in accordance with this label.
- Pest: Ants

- Dilution 2 mL of Temprid SC per 1 L of water.
- Notes: Apply at entry points such as around doors and windows and where utilities enter. Not for use against ant nests. Apply to ant trails behind baseboards, around pipes, under cabinets, and other places where ants are active.
- Information Sheet for Occupants of indoor areas treated with Temprid SC. To be posted at points of entry or given to the occupant.

8. The PMRA's registration decision for the active ingredients of Temprid SC – beta-cyfluthrin and imidacloprid – include human health assessments for the effects of those active ingredients. There are risks associated to human health for exposure to an exceedance of approved dilution rate, as well as exposure inside of the 6-hour REI. Potential adverse effects include respiratory effects like cough or sore throat, shortness of breath. Other potential effects include nausea, dizziness and eye irritation.

9. At no point before, during, or after the treatment did SCAT ask people to leave the building, or to remain outside of the building after the spraying was complete. Although it was August, approximately 21 employees were working out of the ECT that day. No individuals complained of any adverse health effects.

10. Not only did SCAT apply Temprid SC while individuals were present in the room and building, it also did not ventilate treated areas, restrict re-entry to the building (or advise of the restriction) during the restricted entry interval of 6 hours, nor did it provide or post information sheets for occupants about the treatment with Temprid SC.

11. In addition, the application record filled out by SCAT indicated that the Temprid SC was mixed at a ratio of 64 mL to 6 mL water (or 10.67 mL to 1L); the label requires that Temprid SC be mixed at a ratio of 2 mL of Temprid SC to 1L of water, so the applied mixture exceeded the dilution requirement set out on the label.

12. At the time of the offence, Denise Posein held a Pesticide Applicator Certificate of Qualification; Jordan Posein did not.

13. Individuals that do not hold an Applicator's Certificate of Qualification can still apply pesticide as an assistant, if they comply with the regulations that require them to be

supervised by a certified Applicator and have completed an applicator assistant training checklist. Ms. Posein supervised Mr. Posein by walking around with him as he did the spraying, but a training checklist was never completed.


14. SCAT was paid \$250 for the Temprid SC application job.

Agreements

15. The parties agree:

- (a) SCAT will plead guilty to Count 1 on Information **240666990P1**, as described in paragraph 1 of this Agreed Statement of Facts. All remaining charges shall be withdrawn upon the Court sentencing SCAT.
- (b) SCAT agrees that it will be sentenced on all facts forming part of the circumstances of the offences that could constitute the basis for separate charges pursuant to s. 725(1)(c) of the *Criminal Code of Canada*.
- (c) The facts set out in this Agreed Statement of Facts are fully admitted and acknowledged by SCAT. The parties will be at liberty to make further submissions about those facts to the Court.
- (d) This Agreed Statement of Facts may be filed and relied upon even if signed in counterpart or by facsimile copies of the signatures of any person or both.

CONSENTED TO WITH RESPECT TO FORM AND SUBSTANCE THIS 9 day of ~~November~~ ^{December}, 2024.


Lindsay Tate
Counsel for the Alberta Crown Prosecution
Service, Appeals and Specialized
Prosecutions Branch.


Denise Posein
Director, Caleco Enterprises Ltd.



Harvey Neufeld
Counsel for Caleco Enterprises Ltd.