



State of Ohio Environmental Protection Agency

**Southeast District Office**

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Logan, Ohio 43138

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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korteski, Director

February 26, 2007

**BELMONT COUNTY  
SITE - WHEELING BRAKE BAND**

Investment Capital of America, Inc.  
2665 Castilla Isle  
Fort Lauderdale, Florida 33301

**Attention: Mr. Bernard Lee Burgess**

Dear Mr. Burgess:

Please be advised that the Ohio Environmental Protection Agency's (EPA) Southeast District Office received a complaint regarding the illegal disposal of solid wastes and used oil at Wheeling Brake Band & Friction Mfg., Inc. (Wheeling Brake), located at 56100 Berkley Avenue, Bridgeport, Ohio. Based on information provided me by the law firm of Hanlon, Duff, Estadt, McCormick & Schramm, LPA, St. Clairsville, Ohio, this property is owned by Investment Capital of America, Inc.

The complainant alleged that miscellaneous solid wastes have been illegally dumped and buried at Wheeling Brake and used oil has been illegally dumped near an on-site stream. In response to the complaint, on January 24, 2007, I conducted an inspection of Wheeling Brake. I was accompanied by Mr. John Rochotte, with Ohio EPA's Division of Hazardous Waste Management (DHWM).

Mr. Rochotte and I met with Mr. Rob Burgess, President of Wheeling Brake Band & Friction Mfg., Inc., who provided us with a tour of the property. During our inspection, I observed several large piles of old brake pads that have been dumped on the northwest side of the property. This material has been dumped in an area that is approximately 300 feet long by 25 feet wide by 5 feet high. Rob Burgess stated that these brake pads are a waste material that contains asbestos, and have been in this location since approximately 1975. I also observed a large quantity of plank-shaped material at several locations along the south side of this property. Rob Burgess stated that this material also contains asbestos and has been dumped at its current locations since approximately 1975.

Another area of great concern and which needs immediate attention are the seven semi-trailers located on the north and south sides of the property that contain deteriorating bags of asbestos dust. Rob Burgess stated that asbestos dust has existed in these trailers since approximately 1978. The structural condition of some of these trailers is poor, allowing asbestos dust to be exposed to the outside environment. The introduction of the asbestos dust to the environment represents a potentially serious threat to public health and safety.

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Please be advised that these materials are industrial solid wastes, as defined by OAC Rule 3745-27-01(S)(24). The illegal disposals of the brake pads, planks and asbestos dust, discussed above, are violations of Ohio Revised Code (ORC) Chapter 3734.03 and OAC Rule 3745-27-05(C). Specifically:

ORC Chapter 3734.03 - No person shall dispose of solid wastes by open dumping or open burning.

OAC Rule 3745-27-05(C) - No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.

You are currently in violation of ORC Chapter 3734.03 and OAC Rule 3745-27-05(C).

All solid waste must be removed from the property and taken to a licensed disposal facility for proper disposal. Please be advised that before any work can be done that could disturb any asbestos-containing materials, the site must be surveyed by a certified Asbestos Hazard Evaluation Specialist for asbestos-containing materials. The survey should include a plan on handling any asbestos-containing materials on the site. If any friable asbestos containing materials are found, such as the asbestos dust in the trailers, steps must be taken to insure that no asbestos is released to the ambient air.

OAC Rule 3745-20-01(B)(20) defines friable asbestos-containing materials as any material containing more than 1 percent asbestos by area, as determined using the method specified in Appendix E, Subpart E, 40 CFR Part 763, Section 1 Polarized Light Microscopy [60 FR31922, June 19, 1995], that, when dry can be crumbled, pulverized, or reduced to powder by hand pressure.

Any renovation or demolition work must be conducted in accordance with, but not limited to, Ohio Department of Health Asbestos Regulations, Ohio EPA Asbestos Emission Control OAC Chapter 3745-20, EPA Worker Protection Regulations 40 CFR Part 763, Subpart G, USEPA National Emissions Standards on Hazardous Air Pollutants 40 CFR Part 61, Subparts A and M, and OSHA Asbestos Regulations 29 CFR Part 1926.1101.

As previously stated, the trailers that contain deteriorating bags of asbestos dust are of great concern and need immediate attention. These bags should not be disturbed until the survey is completed. Access to these areas should be restricted until the location and condition of asbestos-containing materials are determined and a plan is put in place to abate any asbestos-containing materials that have become friable.

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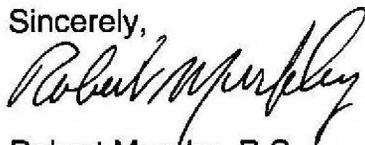
OAC Rule 3745-20-03 requires a Notification of Demolition or Renovation be submitted to this office at least ten working days prior to the start date of any work that will disturb friable asbestos-containing materials. Contractors certified for asbestos abatement work by the Ohio Department of Health must be employed to conduct the removal of any friable asbestos-containing materials.

Mr. Rochotte represents Ohio EPA's Division of Hazardous Waste Management (DHWM) and his observations relative to your compliance DHWM's regulations and laws will be provided in a separate letter to you.

The above cited ORC and OAC violations will continue to accrue until such time as the wastes are removed, recycled, and/or properly disposed at a licensed and permitted solid waste disposal facility. This must be documented by waste receipts from the licensed and permitted solid waste disposal facility receiving the solid wastes.

Please respond to this letter, in writing, within 15 days detailing your intentions and actions taken to comply with Ohio EPA's solid waste regulations and laws. Should you have any questions, please contact me at (740) 380-5408.

Sincerely,



Robert Murphy, R.S.  
Environmental Specialist II  
Division of Solid and Infectious Waste Management  
Ohio Environmental Protection Agency  
Southeast District Office

cc: Harold Vermillion, Belmont County Health Department  
John Rochotte, SEDO/DHWM  
Susan Clay, SEDO/DAPC