

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WARREN

ADIRONDACK PARK AGENCY and
THE STATE OF NEW YORK,

Plaintiffs,

-v-

**STATEMENT FOR
JUDGMENT**

JEFFREY LEE (also known as JEFFREY SALKO) and
JAMES JOHN MCDONALD,

Index No. EF2020-68469

Defendants.

Nicholas C. Buttino, an Assistant Attorney General, admitted to practice in the State of New York and Attorney of Record for the Plaintiffs herein, affirms the following under penalty of perjury:

1. This action was commenced pursuant to CPLR 304 by the filing of a summons and verified Complaint on November 20, 2020. Service was completed upon defendant James McDonald pursuant to CPLR 312-a and an affidavit of service has been made part of the electronic docket in this matter.

2. On December 14, 2020, by court order (the Consent Order), this matter was settled between defendants and plaintiffs. A copy of the Consent Order is attached as **Exhibit A**. In that order, James McDonald agreed to take certain compliance steps and pay the plaintiffs a penalty of \$87,600, with \$45,600 suspended, leaving \$42,000 due. As part of the Consent Order, James McDonald signed a confession of judgment authorizing plaintiffs to enter judgment against him for the amount due. A copy of that confession of judgment is attached as **Exhibit B**.

3. To date, James McDonald has paid \$12,666.67. Accordingly, plaintiffs request the Clerk of Warren County enter a judgment for the remaining \$29,333.33.

Amount awarded against Defendant James John McDonald:

Civil Penalties Due:	\$42,000.00
Civil Penalties Paid:	\$12,666.67
TOTAL JUDGMENT:	\$29,333.33

Dated: 02/05/2021

LETITIA JAMES
Attorney General
State of New York
By: /s/ Nicholas C. Buttino
Nicholas C. Buttino
Assistant Attorney General
Environmental Protection Bureau
New York State Department of Law
The Capitol
Albany, NY 12224
(518) 776-2406

THEREFORE, it is ADJUDGED that James McDonald owes plaintiffs \$29,333.33.

02/05/2021

Judgment signed this ___ day of



Pamela J. Vogel
Warren County Clerk

Addresses of Plaintiffs:

State of New York
Office of the Attorney General
Environmental Protection Bureau
The Capitol
Albany, NY 12224

New York State Adirondack Park Agency
P.O. Box 99
1133 NYS Route 86
Ray Brook, NY 12977

Address of Defendant:

James McDonald
205 Mulberry St., Apt. 4N
New York, NY 10012

Exhibit A: Consent Order

SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF WARREN

ADIRONDACK PARK AGENCY and
 THE STATE OF NEW YORK,

Plaintiffs,

-v-

CONSENT ORDER

Index No. EF2020-68469

JEFFREY LEE (also known as JEFFREY SALKO) and
 JAMES JOHN MCDONALD,

Defendants.

Whereas, on December 17, 2019, plaintiff Adirondack Park Agency (the Agency) served Defendants James John McDonald and Jeffrey Lee (collectively, defendants) with a notice of apparent violation based on their construction and operation of a tourist accommodation on adjacent properties in the Town of Thurman, Warren County (Tax Map Parcel IDs 167.1-1-5 [Lot 5] and 167.3-1-6 [Lot 6]). The address of these properties is 1525 and 1495 River Rd, Warrensburg, NY 12885. Defendants called these properties “the Brampton.” James McDonald has recently begun calling them “the Anglesey Lodge & Barn”. The properties will be referred to in this Consent Order as “the Brampton”.

Whereas, neither defendant McDonald nor defendant Lee answered the Agency’s notice of apparent violation.

Whereas, on February 13, 2020, the Agency held an enforcement hearing on the notice of apparent violation, at which both defendants McDonald and Lee appeared.

Whereas, on February 21, 2020, the Agency issued an order finding that defendants violated the Executive Law and the Wild, Scenic, and Recreational Rivers System Act (Rivers Act) and its regulations. The Agency’s February 21, 2020 Order is attached as Exhibit A.

Whereas, the Agency's February 21, 2020 order also directed that: defendants cease all operations at the Brampton; defendants remove non-conforming structures; defendants install an onsite wastewater treatment system that meets all applicable standards; defendants ensure that their use of the property conforms with lighting and coloring requirements; defendants remove or properly register with the New York or New Jersey Department of Motor Vehicles the tiny home cabin ("tiny home");¹ and defendants record the Agency's order with the County Clerk and notify the Agency of that recording. The Agency imposed a penalty of \$438,000.

Whereas, Lot 5 presently contains a 1995 single family dwelling, a deck attached to the 1995 single family dwelling, a 1995 accessory structure, a yoga deck, and the 2016 structure (referred to in the Agency's Order as 2016 single family dwelling).² Lot 6 presently contains two small renovated cabins.

Whereas, on November 18, 2020, the Agency and New York State commenced an action against defendants James McDonald and Jeffrey Lee (Index No. EF2020-68469 (*APA v. Lee*)).

Whereas, the Agency and James McDonald wish to resolve this matter without further litigation and without prejudice to the Agency's ability to address separately the liability of defendant Jeffrey Lee (also known as Jeffrey Salko or Jeffrey Lee Salko).

¹ If unregistered, the tiny home would be an accessory structure or a principal building. If registered, the tiny home would not be considered a structure within the meaning of Executive Law § 802(50).

² As explained in ¶ 6 below, the Agency will allow James McDonald to keep the 2016 structure. This Consent Order describes the building as the 2016 structure rather than the 2016 single family dwelling because the Agency is imposing conditions to ensure that the 2016 structure is not a dwelling unit.

IT IS HEREBY STIPULATED, ORDERED, AND ADJUDGED as follows:

1. James McDonald admits the findings and violations on pages two through five of the Agency's February 21, 2020 Order.

2. It is the express understanding and agreement of the parties that, upon execution of this Consent Order by their respective authorized counsel or officers, and when so ordered by this Court, the Consent Order shall be and have the force of an order of the Court, and may be enforced as such.

A. Remedial Action

3. James McDonald will not operate the Brampton (or the Anglesey Lodge & Barn or any business at this property going by any other name) as a tourist accommodation or any commercial use without a permit issued by the Agency.

4. Unless James McDonald applies for and receives a tourist accommodation permit, any rental of Lots 5 and 6 must be to no more than one party at a time, respectively. James McDonald may rent Lot 5 and Lot 6 to different parties at the same time. During each rental, James McDonald will not advertise, offer, or provide outside services. Neither James McDonald nor any other outside party will reside on the property being rented during any rental of that property.

5. James McDonald has removed signs associated with the unpermitted tourist accommodation and will not place additional signs without a tourist accommodation permit.

6. James McDonald may keep the 2016 structure on Lot 5 provided that he does not connect it to plumbing and does not rent it out to guests. By January 31, 2021, James McDonald must receive any necessary county or local building permits for the 2016 structure. James McDonald must provide the Agency with copies of those permits by February 15, 2021. In the

event that Warren County or the Town of Thurman determines no permit is necessary for the 2016 structure, by February 15, 2021, James McDonald must provide the Agency with a letter from Warren County or the Town of Thurman indicating that no permits are necessary. If James McDonald does not receive the necessary permits for the 2016 structure by January 31, 2021 and provide the Agency with copies by February 15, 2021, the 2016 structure must be removed by April 1, 2021.

7. James McDonald submitted plans (dated May 26, 2020) for a new wastewater treatment system for the 1995 single family dwelling and installed that system. The Agency has inspected this wastewater treatment system, and determined that it is acceptable so long as no more than 5 bedrooms are located on Lot 5. The 1995 single family dwelling contains 5 bedrooms.

8. The roof, siding, and trim of the 1995 single family dwelling and accessory structures on Lot 5 shall be restricted to a dark shade of green, grey, or brown.

9. There shall be no outdoor lights installed on Lot 5 within 75 feet of River Road or neighboring properties. Any other free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward River Road.

10. Within 75 feet of the centerline of River Road, no trees, shrubs, or other woody-stemmed vegetation may be cut, culled, trimmed, pruned, or otherwise removed on Lot 5 without prior written authorization from the Agency, except for the removal of (1) an area up to 25 feet in width for maintenance of an existing driveway, and (2) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.

11. Prior written Agency authorization shall be required for any expansion in height, footprint, or occupancy of the 1995 dwelling, height or footprint of the 1995 accessory structure, or any other structure or replacement structure on Lot 5.

12. Prior to submission of any permit application for a tourist accommodation on Lot 6, one of the renovated cabins shall be removed from Lot 6. If James McDonald does not apply for a tourist accommodation permit for Lot 6, and does not operate a tourist accommodation, he may leave both of the renovated cabins on Lot 6. However, by December 1, 2020, James McDonald must ensure that only one of the cabins on Lot 6 is connected to permanent facilities for wastewater treatment, and may keep the other cabin if it is not connected to permanent facilities for wastewater treatment.

13. Any new land use or development, or construction or installation of any additional structures on either of the properties will require an Agency permit.

B. Penalty

14. In full satisfaction of all penalties, James McDonald agrees to pay the Agency a penalty of \$87,600 (penalty amount). Of this \$87,600, \$45,600 shall be suspended pending satisfactory completion of the remediation within the deadlines above. James McDonald shall pay \$10,000 of the penalty upon signing this Consent Order, with the remaining \$32,000 due in thirty-six monthly payments. The monthly payment amount shall be \$888.89. The first payment shall be due on January 1, 2021, and each subsequent payment shall be due on the first of each month. If James McDonald fails to comply with any term of this Consent Order, including by failing to make a timely payment, then the remainder of the entire \$87,600 penalty shall be due immediately. If James McDonald sells either or both of the lots, then he will pay the balance of his penalty at the closing for those lots. For a payment to be timely, it must be received by the

Attorney General's Office within five calendar days of its due date. Receipt of such a bank check for the initial \$10,000 payment is an essential precondition to this Consent Order.

15. James McDonald shall make these payments by bank check payable to the State of New York. Personal or business checks are not acceptable. James McDonald shall mail these checks to:

Nicholas C. Buttino
Assistant Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224

16. James McDonald will also execute a confession of judgment for \$87,600, which the Agency will enter in Warren County. The Agency will not file this confession of judgment in other counties of New York if James McDonald complies with the terms of this Consent Order. If James McDonald does not comply with the terms of this Consent Order, including by failing to make timely payments, then the Agency may file the confession of judgment in all counties in New York State.

17. In the event that James McDonald does not complete the remedial actions within the scheduled deadlines stated above, he agrees to pay the State stipulated penalties of \$500 per day for each day that he fails to comply with this Consent Order.

C. Duration of this Consent Order

18. The terms of this Consent Order shall remain in force and effect until the Agency provides written confirmation that James McDonald has completed the Remedial Action and paid the penalty amount and any stipulated penalty owed.

D. General Provisions

19. The Agency makes no representations as to the approvability of any future activity on Lot 5 or Lot 6.

20. As part of this Consent Order, the Agency approves the 1995 single family dwelling, the deck attached to the 1995 single family dwelling, the yoga deck on Lot 5, and the 1995 accessory structure. No further permit is required for these structures. The Agency also authorizes the existing 2016 structure, but any expansion of that structure, including the installation or construction of any staircase, will require Agency review and approval. The Agency's authorization of the structures described in this paragraph takes effect once the State receives from James McDonald an executed copy of this Consent Order and the Confession of Judgment.

21. Agency staff may conduct site inspections to confirm compliance with this Consent Order. James McDonald will cooperate with Agency staff to facilitate such inspections.

22. Nothing contained in this Consent Order shall constitute a waiver of the authority of the Attorney General to obtain civil or criminal sanctions for any conduct that violates the terms of this Consent Order. Nor does this Consent Order prevent the Attorney General, or any other authority with jurisdiction, from obtaining administrative, civil, or criminal sanctions for any conduct related to the property that takes place after the execution of the Consent Order.

23. Any proceeding to enforce the terms of this Consent Order shall be brought in Warren County, New York Supreme Court. The Court shall apply New York State law in resolving enforcement or disputes related to this Consent Order. James McDonald agrees not to contest the jurisdiction of Warren County Supreme Court to enforce the terms of this Consent Order.

24. The failure to enforce any alleged violation of any term of this Consent Order shall not constitute, or be deemed or construed to constitute, any waiver of such violation or any other violation. No amendment to, change of, or suspension or waiver of this Consent Order shall be

binding or of any force or effect unless and until signed by all parties or their authorized counsel and so ordered by the Court.

25. James McDonald shall direct any submittal required under this Consent Order, or any other correspondence, to:

Jennifer Hubbard
NYS Adirondack Park Agency
P.O. Box 99
1133 NYS Route 86
Ray Brook, NY 12977

and:

Nicholas C. Buttino
Assistant Attorney General
New York State Department of Law
Environmental Protection Bureau
The Capitol
Albany, NY 12224

26. This Consent Order shall be binding upon the Agency and James McDonald and their respective principals, employees, agents, heirs, successors, purchasers, and assigns.

27. Nothing in this Consent Order relieves James McDonald of his responsibility to obtain any other permits required by other regulators, including other State agencies or municipalities.

28. Nothing in this Consent Order shall prevent the Agency from seeking to enforce the law in the case of future violations.

29. Nothing in this Consent Order shall prevent the Agency from seeking damages, penalties, or compliance from Jeffrey Lee. Further, as stated in the Agency's February 21, 2020 Order, nothing in this Consent Order absolves Jeffrey Lee of any of his responsibilities.

30. Nothing in this Consent Order shall prevent James McDonald from seeking contribution from Jeffrey Lee. Any contribution that James McDonald may obtain from Jeffrey

Lee does not waive or in any way harm the Agency's ability to pursue compliance, penalties or damages from Jeffrey Lee.

31. There are no other agreements related to settlement between the Agency and James McDonald other than this Consent Order.

32. This Consent Order may be executed in counterparts.

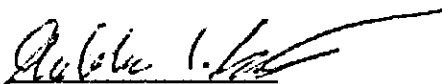
33. Once signed by the Court and so ordered, this Consent Order resolves *APA v. Lee* (Index No. EF2020-68469) against defendant James McDonald. This Consent Order has no effect with respect to plaintiffs' case against Jeffrey Lee in *APA v. Lee*.

34. The effective date of this Consent Order shall be the date on which it is so ordered by the Court.

CONSENTED AND AGREED TO BY:

LETITIA JAMES
Attorney General
State of New York
Attorney for Plaintiffs

By:



Nicholas C. Buttino
Assistant Attorney General
Environmental Protection Bureau
The Capitol
Albany, NY 12224
(518) 776-2406

Dated: 12/3/2020

JAMES MCDONALD

By: *James McDonald*
James McDonald
205 Mulberry St., Apt. 4N
New York, NY 10012

Dated: 11/24/20

STATE OF NEW YORK
COUNTY OF NEW YORK

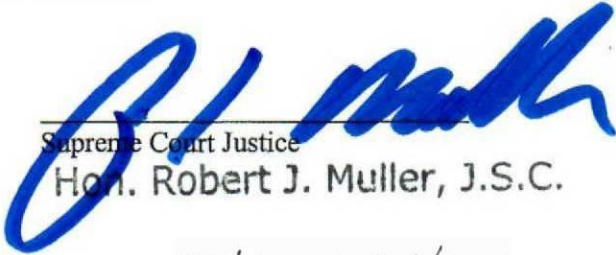
Sworn to before me this: _____

24TH day of Nov 2020

Mary Saragoussi

MARY SARAGOUSSI
Notary Public, State of New York
NO. 01SA6262738
Qualified in Kings County
Certificate filed in New York County
Commission Expires 05/29/2024

SO ORDERED.



Supreme Court Justice
Hon. Robert J. Muller, J.S.C.

Dated: December 14, 2020

Samuel J. Vogel

12/14/2020

RE: APA et al v. Lee et al.
Index No. EF2020-68469

STATE OF NEW YORK: ADIRONDACK PARK AGENCY

In the matter of the apparent violation of § 809 of the Adirondack Park Agency Act and 9 NYCRR Part 577 by:

DETERMINATION AND ORDER OF THE ENFORCEMENT COMMITTEE
Pursuant to 9 NYCRR § 581-2.6

JAMES JOHN MCDONALD
JEFFREY LEE

Agency File E2017-0026

Respondents, on lands situated in the Town of Thurman, Warren County Tax Map Parcels 167.1-1-5 and 167.3-1-6 Adirondack Park Agency Land Use Area: Rural Use

The Enforcement Committee of the Adirondack Park Agency (Agency), with the full Agency hearing the matter, considered the Agency Staff Request for an Enforcement Committee Determination for Enforcement File E2017-0026 on February 13 and 14, 2020.

The Record before the Committee consists of the following documents:

- Agency Staff's Notice of Apparent Violation and Request for Enforcement Committee Determination dated December 17, 2019
- Memorandum of Law in Support of Agency Staff's Notice of Apparent Violation and Request for Enforcement Committee Determination dated December 17, 2019
- Affidavit of Enforcement Officer Bart H. Haralson, dated December 17, 2019, including Exhibits 1-81
- Affidavit of Agency Environmental Engineer Shaun E. LaLonde, dated December 17, 2019, including Exhibits 1-4

Respondents did not provide an answer to the Notice of Apparent Violation.

Agency staff and Respondents James John McDonald and Jeffrey Lee appeared before the Enforcement Committee, with the full Agency hearing the matter, on February 13, 2020. Based on the Record and the proceedings before the Enforcement Committee, the Enforcement Committee makes the following findings, determinations, and orders pursuant to 9 NYCRR § 581-2.6(d).

Applicable Law

Pursuant to Agency regulations at 9 NYCRR Part 577, a permit is required from the Agency prior to any new land use or development classified a compatible use on Rural Use lands within any designated Recreational River Area in the Adirondack Park. Pursuant to § 805(3)(f) of the Adirondack Park Agency Act (Executive Law or EL), single family dwellings and accessory structures are compatible uses in a Rural Use land use area.

Pursuant to EL § 809(2)(a), a permit is required from the Agency prior to the establishment of any tourist accommodation on Rural Use lands in the Adirondack Park. Pursuant to EL § 809(10)(c), the Agency cannot authorize the establishment of a tourist accommodation involving the use of more tourist cabins or other units available for rent than allowed under EL §§ 802(50) and 805(3)(f)(3).

Pursuant to Agency regulations at 9 NYCRR Part 577, a permit is required from the Agency prior to any new land use or development classified a compatible use on Rural Use lands within any designated Recreational River Area in the Adirondack Park. Pursuant to EL § 805(3)(f), tourist accommodations are compatible uses on Rural Use lands.

Pursuant to EL § 809(2)(a), a permit is required from the Agency prior to the construction of more than one principal building after May 22, 1973, on a non-shoreline lot containing less than 14.70 acres in a Rural Use land use area. Pursuant to EL §§ 805(3)(f)(3) and 809(10)(c), the Agency cannot issue a permit authorizing the construction of more than one principal building after May 22, 1973, on a lot containing less than 12.75 acres in a Rural Use land use area.

Findings

1. Tax Map Parcel 167.1-1-5 (Lot 5) is an approximately 10.47-acre parcel, with frontage on River Road. Lot 5 is located on Rural Use lands on the Adirondack Park Land Use and Development Plan Map, within the designated Hudson River Recreational River Area in the Town of Thurman, Warren County.
2. Respondent McDonald is the current owner of Lot 5, as described in a deed recorded under Book 5223, Page 157, in the Warren County Clerk's Office.
3. Tax Map Parcel 167.3-1-6 (Lot 6) is an approximately 2.1-acre parcel, with frontage on River Road. Lot 6 is located on Rural Use lands within the designated Hudson River Recreational River Area in the Town of Thurman, Warren County.
4. Respondent McDonald is the current owner of Lot 6, as described in a deed recorded under Book 5584, Page 158, in the Warren County Clerk's Office.

5. Between 1995 and 2000, a prior owner constructed a single family dwelling, referred to by Respondents as a lodge (the 1995 single family dwelling), and a 1,144 square foot accessory structure, referred to by Respondents as a barn (the 1995 accessory structure), on Lot 5. No permit was obtained from the Agency prior to the construction of the 1995 single family dwelling and the 1995 accessory structure.
6. In 2015, Respondents established a tourist accommodation known as "The Brampton" on Lots 5 and 6. Respondents have operated The Brampton as a tourist accommodation since this time. No permit was obtained from the Agency prior to the undertaking of this tourist accommodation.
7. In 2016, Respondents undertook construction of a single family dwelling on Lot 5 (the 2016 single family dwelling) to be associated with the tourist accommodation. Construction of the 2016 single family dwelling has not been completed. No permit was obtained from the Agency prior to undertaking construction of the 2016 single family dwelling on Lot 5.
8. Since 2015, Respondents have used the 1995 single family dwelling and the 1995 accessory structure in association with The Brampton tourist accommodation. In addition, Respondents have constructed or installed the following structures associated with the tourist accommodation on Lot 5: a yoga deck, a camper van with a double bed, a tent platform with a double bed and a single bed, a large staircase, an Airstream travel trailer, and a second travel trailer. Respondents have also installed an outhouse with a flush toilet, attached shower, electric service, and gravity-fed water (the outhouse structure), all connected to a cesspool. No permit was obtained from the Agency prior to the construction or installation of these structures on Lot 5.
9. Between 2015 and 2019, Respondents renovated two small cabins and installed a "tiny home" structure on Lot 6. These three structures are associated with the tourist accommodation use. No permit was obtained from the Agency prior to renovation or installation of these structures on Lot 6.
10. On March 20, 2017, Agency staff opened Enforcement File E2017-0026 in response to complaints that Respondents had established a tourist accommodation on Lot 5, installed structures on Lot 5 associated with this tourist accommodation, and undertaken construction of a single family dwelling on Lot 5 without obtaining a permit from the Agency.
11. During the subsequent investigation, Agency staff conducted site visits on April 5, 2017; September 28, 2017; and August 22, 2018. During the various site visits, Agency staff observed the above-listed structures on Lots 5 and 6. Agency staff also observed that the leaching facility of the existing on-site wastewater treatment system serving the 1995 single family dwelling is located within 100

feet of Respondents' water supply and an intermittent stream, contrary to New York State Department of Health (DOH) and Agency standards.

12. Agency staff sent written correspondence to Respondents on April 14, 2017; July 12, 2017; July 18, 2018; and September 18, 2018.
13. On November 10, 2017, Agency staff received a letter from Respondent McDonald stating that Lot 6 "will henceforth be used solely for personal use." On May 24, 2018, Agency staff received a permit application for The Brampton tourist accommodation, which included professionally prepared plans for an on-site wastewater treatment system for the 1995 single family dwelling. The Agency received no other written response or submission from Respondents.
14. Agency staff met with Respondent Lee at the Agency's offices on March 29, 2018.
15. Agency staff spoke with Respondent Lee by telephone on the following dates: May 22, 2017; June 12, 2017; July 17, 2017; September 5, 2017; five times during October 2017; February 21, 2018; March 27, 2018; five times between May 26, 2018, and June 27, 2018; three times between July 23, 2018, and August 6, 2018; and November 5, 2018.
16. Agency staff sent proposed settlement agreements to Respondents on February 13, 2018; January 8, 2019; and August 2, 2019. Each proposed settlement agreement offered to resolve the enforcement matter provided the Respondents obtained an after-the-fact permit authorizing continued operation of the tourist accommodation, removed the non-conforming structures, installed an Agency-approved on-site wastewater treatment system for the 1995 single family dwelling, and paid a civil penalty of \$2,500. Respondents did not sign any of the proposed settlement agreements.
17. Throughout the Agency's investigation, Respondents have continuously advertised The Brampton tourist accommodation as an operating tourist accommodation. Despite Respondents' statements to the contrary, all of the accommodation structures on Lots 5 and 6 have been advertised as available for rent.
18. Advertised rental rates for The Brampton vary depending on the season and type of rental, ranging from \$1,500 for a weekend for the 1995 single family dwelling, to \$3,000 per person for a week-long adventure retreat, to \$10,000 for weddings.

Determination of the Violation

Respondents are violating EL § 809(2)(a) by the establishment since at least 2015 of a tourist accommodation on Rural Use lands in the Adirondack Park without first obtaining a permit from the Agency on the subject property.

Respondents are violating EL § 809(10)(c) by the establishment since at least 2015 of a tourist accommodation involving the use of more tourist cabins or other units available for rent than allowed under EL §§ 802(50) and 805(3)(f)(3).

Respondents are violating EL § 809(2)(a) by the construction of more than one principal building after May 22, 1973, on a non-shoreline lot containing less than 14.70 acres in a Rural Use land use area without a permit.

Respondents are violating EL § 809(10)(c) by the construction of more than one principal building after May 22, 1973, on a non-shoreline lot containing less than 12.75 acres in a Rural Use land use area.

Respondents are violating Agency regulations at 9 NYCRR Part 577 implementing the Wild, Scenic, and Recreational Rivers System Act by the construction of a single family dwelling and accessory and other structures on Rural Use lands within a designated Recreational River Area in the Adirondack Park without a permit.

Respondents are violating Agency regulations at 9 NYCRR Part 577 implementing the Wild, Scenic, and Recreational Rivers System Act by the establishment of a tourist accommodation on Rural Use lands within a designated Recreational River Area in the Adirondack Park without a permit.

Determination and Order of Appropriate Disposition

Now, therefore, having considered this matter, the Enforcement Committee orders the following:

Cease Operations

1. Effective immediately, Respondents shall cease operating The Brampton tourist accommodation on Lots 5 and 6 and shall not resume operating unless and until the Agency issues a permit authorizing a tourist accommodation. Within 15 days of service of this Determination and Order, Respondents shall provide notice confirming the following:
 - a. All current reservations at The Brampton have been cancelled,
 - b. No additional reservations will be accepted unless and until the Agency issues a permit authorizing a tourist accommodation, and
 - c. All advertising of The Brampton has ceased; and
2. By April 1, 2020, Respondents shall remove all signs associated with the tourist accommodation from Lots 5 and 6; and

Remove Nonconforming Structures

3. By June 1, 2020, Respondents shall remove the yoga deck, camper van, tent platform, large staircase, Airstream travel trailer, second travel trailer, and outhouse structure from Lot 5; and
4. By July 1, 2020, Respondents shall remove the 2016 single family dwelling from Lot 5; and

Install Wastewater Treatment System

5. With respect to a replacement on-site wastewater treatment system to serve the 1995 single family dwelling on Lot 5 the Respondents shall do the following:
 - a. By April 1, 2020, submit a plan to the Agency, DEC, and DOH for review and approval. The plan shall be prepared by a New York State design professional (licensed engineer or registered architect), consider the use of the property, and be prepared in accordance with all requirements set forth by the current version of New York State Department of Health's "Wastewater Treatment Standards for Individual Household Systems" (10 NYCRR Appendix 75 A), New York State Department of Environmental Conservation's Design Standards for Intermediate Sized Wastewater Treatment Systems, the Agency's Project Guidelines for Residential On-Site Wastewater Treatment, and with Agency standards in 9 NYCRR Appendix Q-4; and
 - b. By September 1, 2020, install an on-site wastewater treatment system on Lot 5 in accordance with the plan approved by the Agency. Installation of the approved plan shall be under the supervision of a licensed design professional; and
 - c. Within 30 days of complete system installation, and prior to use, the design professional shall provide the Agency with written certification that the system was built in compliance with the approved plans; and

Ongoing Conditions

6. The roof, siding, and trim of the 1995 single family dwelling and accessory structure on Lot 5 shall be restricted to a dark shade of green, grey, or brown; and
7. There shall be no outdoor lights located on Lot 5 within 75 feet of River Road or any neighboring properties, and any other free-standing or building-mounted outdoor lights shall employ full cut-off fixtures that are fully shielded to direct light downward and not into the sky or toward River Road; and

8. Within 75 feet of the centerline of River Road, no trees, shrubs or other woody-stemmed vegetation may be cut, culled, trimmed, pruned or otherwise removed or disturbed on Lot 5 without prior written Agency authorization, except for the removal of 1) an area up to 25 feet in width for maintenance of the existing driveway, and 2) dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard; and
9. Prior written Agency authorization shall be required for any expansion in height or footprint of the 1995 dwelling, the 1995 accessory structure, or any other structure or replacement structure on Lot 5; and
10. Prior to submission of any permit application for a tourist accommodation on Lot 6, one of the renovated cabins and the Tiny Home shall be removed from Lot 6; and
11. If both renovated cabins remain on Lot 6, no more than one cabin may contain permanent facilities for septic; and
12. If the Tiny Home remains on Lot 5 or 6, the structure shall be and remain registered with the New York or New Jersey department of motor vehicles, contain no permanent facilities for septic, be set back at least 150 feet from the river, and have no attached permanent structures, including porches and steps; and

Record

13. Within 15 days of service of this Determination and Order, Respondents shall record this Determination and Order in the Warren County Clerk's Office. Respondents shall provide the Agency with proof of recording within 30 days of service of this Determination and Order.

Notice

14. Unless otherwise specified above, Respondents shall provide written notice by first class mail or hand delivery to the Agency c/o Enforcement Division prior to the respective specified deadline confirming that each of the above actions has been completed.

Civil Penalty

15. Respondents shall pay a civil penalty to the State of New York in the amount of \$200 per day for violations of the Adirondack Park Act and \$400 per day for violations of Agency Regulations 9 NYCRR Part 577 implementing the Wild, Scenic, and Recreational Rivers System Act, each for for 730 days beginning February 13, 2018 for a total of \$438,000.

Exhibit B: Confession of Judgment

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WARREN

ADIRONDACK PARK AGENCY and
THE STATE OF NEW YORK,

Plaintiffs,

-v-

**AFFIDAVIT FOR
CONFESSION OF JUDGMENT**

JEFFREY LEE (also known as JEFFREY SALKO) and
JAMES JOHN MCDONALD,

Index No. _____

Defendants.

STATE OF NEW YORK)
) ss:
COUNTY OF WARREN)

James John McDonald, being duly sworn, deposes and says:

1. I am James John McDonald, a defendant in this case. I have an address of 205 Mulberry St., Apt. 4N, New York, NY 10012.
2. I operated the business formerly known as the Brampton, now known as the Anglesey Lodge & Barn, located at 1525 and 1495 River Road, Town of Thurman, Warren County (Tax Map Parcel 167.1-1-5 [Lot 5] and Tax Map Parcel 167.3-1-6 [Lot 6]).
3. I authorize this Confession of Judgment to be recorded in Warren County and in other counties of New York State.
4. I confess judgment in favor of Plaintiffs Adirondack Park Agency (the Agency) and the State of New York (collectively, Plaintiffs) for the sum of \$87,600.
5. This Confession of Judgment is to assure Plaintiffs that I will pay the agreed-upon penalties in accordance with the Consent Order in the above captioned matter.

6. On February 21, 2020, the Agency issued an order finding that Jeffrey Lee (also known as Jeffrey Lee Salko) and I violated Executive Law § 809 and the Wild, Scenic and Recreational Rivers Act (Rivers Act), and its regulations in 9 NYCRR Pt. 577. The Agency set a compliance schedule and damages.

7. I agree to settle my liability. I will comply with the terms of a injunctive relief in a Consent Order and pay a penalty of \$87,600, with \$45,600 of this amount suspended pending timely completion of the compliance schedule set forth in the Consent Order. I will pay \$10,000 of this penalty when I sign the Consent Order. I will pay the remaining \$32,000 of the non-suspended penalty in monthly installments for a period of thirty-six (36) months, starting on January 1, 2021. The monthly payment amount will be \$888.89 and there is no pre-payment penalty. In the event that I sell either Lots 5 or 6, I will pay the balance of the penalty owed on closing of that lot(s). If I fail to complete any of the compliance terms on time, or fail to make payments on time, the entire remaining penalty shall be due immediately on demand from the Agency.

8. To facilitate entry of such judgment, I, James McDonald, hereby authorize Plaintiffs to enter judgment against me in the amount of \$87,600, or a lesser included amount.

STATE OF NEW YORK
COUNTY OF NEW YORK

By: *James McDonald*
James John McDonald

Sworn to before me this:

24TH day of *NOV* 2020

So Ordered. *Mary Saragoussi*

MARY SARAGOUSSI
Notary Public, State of New York
NO. 01SA6262738
Qualified in Kings County
Certificate filed in New York County
Commission Expires 05/29/2024