

**Delaware Department of Agriculture**  
**Pesticides Section, Enforcement**  
2320 South DuPont Highway  
Dover, Delaware 19901  
Enforcement Action/Violation

**Respondent:**

Kelly's Lawn Care LLC  
18 Alcott Drive  
Wilmington Delaware 19808

**Violations:**

3 Del. C. § 1224(a)(10) -- Neglecting or, after notice, refusing to comply with the law, the rules adopted under the law, or any lawful order of the Department.

**Penalty:**

Respondent signed a consent agreement September 23<sup>rd</sup> 2015. In the agreement, Respondent agreed to the imposition of disciplinary sanctions which included a civil penalty of \$1400.00 for violating §1224(a)(10) .

**STIPULATED FACTS**

1. Kelly's Lawn Care LLC ("Respondent") is a commercial pesticide applicator business with an office located at 18 Alcott Drive, Wilmington, Delaware 19808. Respondent had an expired license (License No. 1391) that was issued by the Delaware Department of Agriculture ("the Department"). The license was expired from December 31, 2014 to July 17, 2015.
2. Kelly Keith ("Keith") is the owner of Kelly's Lawn Care LLC., and is a certified commercial applicator 09-074 in category 7.3.1 (Ornamental and Turf Pest Control). Keith's certification was expired from December 31, 2014 to July 17, 2015.
3. The Pesticide Section of the Department ("Complainant,") is bringing this enforcement action against Respondent. Stephen McReynolds ("McReynolds") is employed as an Environmental Scientist II with the Department.
4. On July 4th, 2015, McReynolds received an anonymous tip via phone call stating that Green Dreams was spraying the fields at A.I. DuPont High School.
5. On July 10<sup>th</sup>, 2015, McReynolds met with Kevin Palladinetti, Principal of A.I. DuPont High School. He stated that Darren Brodie, A.I. DuPont High School Baseball Coach, told him that Green Dreams subbed the spraying to Kelly's Lawn

Care, owned by Kelly Keith.

6. On July 17<sup>th</sup>, 2015, Keith came to the Department to take the re-certification test. Keith's certification was expired and he had to re-test in order to renew his business license. After completing the test, McReynolds issued Keith a notice of inspection and interviewed him about the A.I. DuPont High School applications and contract. During this interview Keith stated he purchases his pesticides at John Deere Landscapes. He mentioned buying the following:
  - a. Barricade .43% Plus Fertilizer 14-0-7, EPA Reg. No. 10404-89
  - b. Lesco 3-Way Selective Herbicide, EPA Reg. No. 10404-43
  - c. Roundup QuikPro Herbicide, EPA Reg. No.524-535
  - d. Lockup Granular Weed and Feed, EPA Reg. No. 62719-590-10404
  - e. Momentum FX2 Herbicide, EPA Reg. No. 228-447-10404
7. McReynolds verified these purchases by obtaining John Deere Landscapes Invoice for Kelly's Lawn Care. Invoices: 7134703, 1321444,71936271,72058818,72668150 show these pesticide purchases. During this conversation Keith also admitted to doing weed control at 18 KFC's in Delaware and 14 KFC's in Pennsylvania. Keith stated that on or around June 26, 2015 he spot sprayed the clover on the athletic fields at A.I. DuPont High School with .75 ounce/1 gallon of water dilution of Momentum FX2.
8. In the past 5 years, Respondent has no pesticide compliance violations with the Department.
9. **Momentum FX2**, EPA Registration Number 228-447-10404, is a pesticide registered for sale and use in the State of Delaware by the Department.
10. On August 5<sup>th</sup> 2015, McReynolds conducted a business license inspection with Kelly's Lawn Care LLC. McReynolds requested ten application records for review. Keith supplied one record during the inspection and emailed ten of the records to McReynolds. The records supplied were missing: weather conditions, brand name, dilution rate, applicators name and total amount applied.
11. Delaware Pesticide Rules and Regulations, Section 14.0 establishes record keeping requirements for commercial applicators. Section 14.1.1 states in part "The brand name of the pesticide used." Section 14.1.2 states in part "When applicable, the dilution rate of the pesticide and the amount of diluted material applied per unit (i.e. gallons/acre, lbs./acre, etc.). Section 14.1.5 states in part "The applicators name, and when applicable, the name of the certified applicator responsible for his supervision." Section 14.1.6 states in part "When label directions advise precaution in regard to drift, on-site weather conditions to include 14.1.6.1 Wind velocity, 14.1.6.2 Temperature, and 14.1.6.3 Relative humidity."

12. Keith stated several employees also apply pesticides, Roundup. However, there are no registered employees listed on the Kelly's Lawn Service Business license.
13. Delaware Pesticide Rules and Regulations, Section 4.2 establishes Employee Registration. Section 4.2.1 states in part "Licensees shall register with the Department all employees who handle pesticides. Registration shall be made when making an application for a license or within 45 days after employment."