

**BEFORE THE
DEPARTMENT OF RESOURCES, RECYCLING & RECOVERY
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF:

Greenyard Recycling – Sarkis Bayamdzhyan

Address: 12375 Central Avenue, Chino, CA
3561 West Slauson Ave, Los Angeles, CA
15358 Beach Blvd, Westminster, Los Angeles, CA
1521 East Cesar Chavez Ave, Los Angeles, CA
8620 Orchard Ave, Los Angeles, CA
2507 West Temple St, Los Angeles, CA
13075 Euclid St, Garden Grove, CA
133 West Ave 45, Los Angeles, CA

Type of Entity: Revocation of Probationary Certificate

File No.: IH21-004-BCR

**Certificate Nos.: RC166945.001, RC256057.001, RC266791.001, RC280654.001,
RC285283.001, RC294386.001, RC298938.001, RC300122.001**

PRECEDENTIAL DECISION No.: 23-02

**Designation of decision as precedential under Government
Code Section 11425.60**

Pursuant to Government Code Section 11425.60, the Department of Resources, Recycling and Recovery hereby designates as precedential its decision, dated August 20, 2021, in the above-referenced action.

This decision is designated precedential effective September 10, 2023.

Sacramento, California

Dated: September 10, 2023

As approved by Rachel pursuant to RFA dated September 10, 2023

Department of Resources, Recycling & Recovery

Date: 8/20/21
By: DM

**STATE OF CALIFORNIA
DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

IN THE MATTER OF:

GREENYARD RECYCLING, INC.
RC166945.001, RC256057.001,
RC266791.001, RC280654.001,
RC285283.001, RC294386.001,
RC298938.001, RC300122.001

BAYAMDZHYAN BAYAMDZHYAN

RESPONDENT.

File No. IH21-004-BCR

DECISION AND ORDER

I. INTRODUCTION

The Division of Recycling (Division) of the Department of Resources Recycling and Recovery (Department or CalRecycle) issued a notice to Sarkis Bayamdzhyan (Bayamdzhyan) and Greenyard Recycling, Inc. (Greenyard), dated February 22, 2021, immediately revoking Greenyard's probationary certifications to operate a recycling centers at 12375 Central Avenue in Chino, 3561 West Slauson Avenue in Los Angeles, 15358 Beach Boulevard in Westminster, 1521 East Cesar Chavez Avenue in Los Angeles, 8620 Orchard Avenue in Los Angeles, 2507 West Temple Street in Los Angeles, 13075 Euclid Street in Garden Grove, and 133 West Avenue 45 in Los Angeles.

A timely request for hearing on the certification revocations was filed pursuant to Title 14, section 2130 of the California Code of Regulations (CCR).

A hearing was conducted on July 7, 8, and 9, 2021, in Sacramento, California via video-conferencing. On that date, all evidence and testimony in this matter was received into the record.

Jeff Diamond, Senior Staff Counsel, appeared on behalf of the Division. John Gugliotta, esq., appeared on behalf of Bayamdzhyan and Greenyard.

Douglas C. Jensen, Attorney IV, CalRecycle, presided over the hearing under a delegation of authority from CalRecycle Director, Rachel Machi Wagoner.

II. ISSUE

Whether the Division's decision to revoke Greenyard's probationary certifications to operate recycling centers shall be sustained, modified, or reversed.

III. EVIDENTIARY MATTERS

Witnesses

The Division presented testimony from Carrie Holler, Recycling Specialist III (Holler). Holler is a supervisor and her staff reviews applications for certification to operate recycling centers (RCs). She testified regarding Greenyard's probationary certificates to operate RCs.

The Division presented testimony from Michael Mora (Mora). Mora is a Special Agent for California Department of Justice (DOJ) assigned to the recycling fraud team. He investigates potential violations of the Public Resources Code (PRC) and the Penal Code (PC) as they relate to recycling fraud. Mora testified regarding a recycling fraud investigation he led related to Greenyard.

The Division presented testimony from Seth Hamilton (Hamilton). Hamilton is a Special Agent for the DOJ assigned to the recycling fraud team. Hamilton testified regarding a recycling fraud investigation he participated in related to Greenyard.

The Division presented testimony from Judy Garcia, Associate Governmental Program Analyst for the Division's enforcement branch (Garcia). Garcia investigates RCs for compliance with the Act and Regulations. She testified regarding a 2020 review she conducted of Greenyard's shipping reports and log records. Garcia further testified regarding Greenyard's operational history.

The Division presented testimony from Alejandro Hernandez, Senior Management Auditor with the Investigations Unit (Hernandez). Hernandez is a supervisor and his staff investigates RCs for compliance with the Act and Regulations. He testified regarding his observations of a Greenyard shipment of beverage containers shipped to a processor, Basic Fibres, on November 19, 2020.

Respondent presented testimony from Jose Jiminez, Recycling Coordinator for Basic Fibres. Jiminez testified regarding his observations of a Greenyard shipment of beverage containers delivered to Basic Fibres on November 19, 2020.

Respondent presented testimony from Sarkis Bayamdzhyan (Bayamdzhyan), owner and operator of Greenyard. Bayamdzhyan testified to his business practices as an RC owner and operator.

Exhibits

Division Exhibits 1—32 were admitted. Pages 13, 20, 21, 36, 37, and 38 were stricken from Division Exhibit 25.

Respondent Exhibits A and B were admitted.

Division Subpoena

On February 4, 2021, the Division served Bayamdzhyan a Subpoena Duces Tecum demanding that he provide various documents associated with the Greenyard RCs. Included in the demand was “any notebooks, notes, logs, or ledgers”.

Bayamdzhyan provided documents in response to the subpoena, however he did not produce any notebooks. The Division contends that Bayamdzhyan was obligated to produce a stenographer’s notebook observed by the DOJ to be in a Greenyard employee’s possession on November 18, 2020. Bayamdzhyan denies that he was in possession of the notebook.

The Division moves for a finding that the notebook was intentionally concealed or destroyed (spoliated) and to infer that notebook would have contained evidence unfavorable to Respondent. However, there is an inadequate record to support such findings. The Division’s motion is denied.

IV. FINDINGS OF FACT

Greenyard Recycling, Inc

Greenyard Recycling, Inc. (Greenyard), is a corporation. It is the owner and certificate-holder for nine certified recycling centers (RCs). Eight of the nine certifications are probationary and are the subject of this revocation action. The ninth RC—located at 2570 Vineyard Avenue in Ontario, California (Greenyard-Ontario)—is fully certified and is not subject to this revocation action.

Bayamdzhyan is Greenyard’s owner. In a Statement of Information filed with the Secretary of State for Greenyard on April 30, 2020, Bayamdzhyan is listed as the Chief Executive Officer, Secretary, Chief Financial Officer, and Agent for Service of Process.

Bayamdzhyan purchased Greenyard on January 31, 2016. At the time of purchase, Greenyard owned two RCs located in Chino and Ontario. Since that time, Greenyard has acquired additional locations and RC certificates while discontinuing others. Greenyard has an agreement with All-Recycling, another RC, whereby All-Recycling trucks make beverage container shipments on Greenyard’s behalf.

Bayamdzyhyan was also involved in the operation of other RCs besides those owned by Greenyard. He opened SBA Recycling on March 1, 2012, and he purchased G-King Recycling on April 1, 2016, after a short stint as manager.

Operational History

The Division documented multiple violations of the Act and Regulations occurring at Greenyard RCs since its purchase by Bayamdzhyan, including repeated violations for paying California Refund Value on scrap¹. Bayamdzhyan acknowledged that he paid penalties in connection with some of these violations as a cost of business, and denied others. Bayamdzhyan testified that he was not provided any notice from the Division that he had a right to a hearing to challenge the alleged violations.

The Division conducted a review of shipping reports and logs from February 29, 2020, for the Greenyard RC located at 12375 Central Avenue in Chino, California. The Division found one duplicate receipt and two missing receipts. However, Bayamdzhyan credibly explained that these anomalies were due employee error in operating Greenyard's purchasing software, and did not result in inflated claims against the Fund.

Fraud Scheme Investigation

Beverage containers sold or offered for sale in California are eligible for redemption payment, also known as California Refund Value (CRV), from the California Beverage Container Recycling Fund (Fund)². Beverage containers brought into California from other states, previously redeemed beverage containers, and baled beverage containers³ are not ineligible for CRV. Certified RCs are prohibited from purchasing or selling ineligible beverage containers for CRV⁴.

In August 2020, the California Department of Justice (DOJ), with cooperation from CalRecycle, began investigating a tip that a certified RC was receiving ineligible beverage containers for CRV redemption. The DOJ conducted interviews, performed covert surveillance, and executed search warrants. Based upon its investigation, the DOJ concluded that West Coast Waste, a processor, was selling ineligible beverage containers to third parties operating two transloading sites-- open-air lots located at 11659 Ramona Avenue in Chino, California (Chino Lot) and 2722 Firestone Boulevard in South Gate, California (Vernon Lot). The operators of the transloading sites would then sell and distribute the ineligible beverage containers to various RCs who would in turn redeem the containers for CRV.

On September 10, 2020, the DOJ conducted covert surveillance of the Chino Lot. A box truck registered to SA Recycling drove from the Chino Lot and to a Greenyard RC located at 2570 South Vineyard Avenue in Ontario, California (Greenyard-Ontario). The

¹ The Division's relevant operational history file for Greenyard includes eleven incident dates.

² Public Resources Code (PRC) sections 14512, 14560, 14580.

³ Baled material is not eligible for refund value. Baling is a method of tightly compressing or densifying material, resulting in its "Cancellation"-- the act of removing the refund value of an empty beverage container. (CCR section 2000(a)(4).) Aluminum beverage containers are cancelled when they can no longer be physically reconstituted or distinguished as container units. "This may be accomplished by densification to thirty pounds per cubic foot or more." (CCR section 2000(a)(4)(A).) Plastic containers are cancelled when the original has been so altered as to make its reconstitution physically impossible. (CCR section 2000(a)(4)(B).)

⁴ CCR section 2501.

driver, identified as Ivan Dominguez Lopez (Lopez), parked outside the RC and waited for customers to leave. He then drove into Greenyard-Ontario and along with an unidentified person present at the site, unloaded eight super-sacks of beverage containers⁵. DOJ observed that the material was not weighed and no receipt was issued to Lopez.

Lopez then drove the box-truck back to the Chino Lot and got into a blue 53-foot tractor-trailer (Tractor-Trailer). He drove the Tractor-Trailer to West Coast Waste, a certified processor, where it was loaded with several bales of plastic beverage containers.

On September 11, 2020, the DOJ resumed its covert surveillance of the Chino Lot where it observed that the Tractor-Trailer had returned to the lot from West Coast Waste.

On September 30, 2020, the DOJ conducted covert surveillance of the Chino Lot. It again observed the presence of the Tractor-Trailer. Lopez drove a box-truck from the Chino Lot to Greenyard-Ontario where five super-sacks of plastic beverage containers were unloaded. The DOJ observed that the material was not weighed and no receipt was issued to Lopez.

On October 1, 2020, the DOJ conducted covert surveillance of the Chino Lot. Lopez drove a box-truck from the lot to Greenyard-Ontario where twelve super-sacks of beverage containers were unloaded. The DOJ observed that the material was not weighed and no receipt was issued to Lopez. Lopez then drove the box-truck back to the Chino Lot.

On October 20, 2020, a search warrant was issued for video camera surveillance of the Chino Lot.

On October 27, 2020, the DOJ conducted covert surveillance of the Chino Lot. Lopez drove a 53' tractor-trailer from the lot to West Coast Waste where several empty super-sacks were unloaded from the trailer. 49 super-sacks of plastic beverage containers were then loaded onto the trailer by forklift. Lopez then drove the tractor-trailer back to the Chino Lot.

On October 28, 2020, the DOJ conducted covert surveillance of the Chino Lot. Lopez drove a box-truck from the lot to Greenyard-Ontario. There, Lopez unloaded 8 super-sacks of beverage containers. The DOJ observed that the material was not weighed and no receipt was issued to Lopez. Lopez then drove the box-truck back to the Chino Lot.

On November 18, 2020, the DOJ conducted covert surveillance of the Chino Lot. Lopez drove a box-truck from the lot to Greenyard-Ontario where he and an unidentified man present at the site unloaded eight super-sacks of plastic beverage containers. Lopez

⁵ A super-sack, also known as a gaylord bag, is a large, industrial-sized receptacle capable of holding very large quantities of beverage containers. A super-sack filled with plastic or aluminum beverage containers will exceed daily 100-pound load limits. (CCR section 2535(f).)

then drove the box-truck to West Coast Waste where he loaded twenty-three super-sacks of beverage containers into the box-truck. Lopez then drove the box-truck back to the Chino Lot.

Two men present at Greenyard-Ontario examined the material delivered by Lopez as one of the men made notes in a notepad. The two unidentified men then mixed the delivered materials into other partially loaded super-sacks already present at the RC. The mixed super-sacks were then loaded onto an All-Recycling box-truck.

The All-Recycling box-truck was driven to Basic Fibres where it queued-up with other vehicles delivering materials.

On November 19, 2020, the DOJ and the Division were at Basic Fibres to conduct interviews when they observed a box-truck arrive. The DOJ recognized the box-truck as the same box-truck it had observed on November 18, 2020. The box-truck delivered a mix of baled and unbaled plastic beverage containers for CRV redemption on behalf of Greenyard-Ontario. Greenyard claimed CRV for the shipment by submitting a signed shipping report to the Division of Recycling Integrated Information System (DORIIS), however, the Division placed a payment hold on the shipment. The Division informed Bayamdzhyan that the payment hold had been made due to the discovery of baled beverage containers in the shipment.

On December 9, 2020, the DOJ conducted covert surveillance of the Vernon Lot . A man and a woman loaded several commercial-sized bags of beverage containers from shipping containers located at the lot into a van. The van drove to a Greenyard RC located at 1521 East Cesar Chavez Avenue in Los Angeles, California (Greenyard-Cesar Chavez) where the material was unloaded by Greenyard RC employees. The DOJ did not observe that the material was weighed or receipts issued.

On January 8, 2021, the DOJ executed a search warrant on the Chino Lot. A 53' trailer at the lot contained baled-plastic beverage containers, loose plastic beverage containers, empty commercial-sized bags, and a pickaxe. Some of the material bore the insignia of Las Vegas casinos. A box-truck contained several empty super sacks. A ledger was retrieved from a passenger vehicle included in the search warrant.

Greenyard was placed on prepayment control status effective February 2, 2021, requiring Greenyard to provide the Division 48 hours notice before shipping any load for CRV claims.

The Division personally served Bayamdzhyan with a Subpoena Duces Tecum on February 4, 2021. Greenyard provided shipping reports, DORIIS printouts, weight tickets, pay stubs, and receipts in response to the subpoena. Greenyard did not provide any notebooks or any information related to transport in responding to the subpoena. Nor did Greenyard provide any documentation of scrap purchases.

In a letter dated February 22, 2021, the Division notified Respondent that his eight probationary-certifications were revoked effective immediately.

V. CONCLUSIONS OF LAW

The Division is charged with enforcing the California Beverage Container Recycling and Litter Reduction Act (PRC section 14500 et. seq.) (Act) and related regulations found at Title 14, California Code of Regulations, section 2000 et seq. (Regulations). The Division is further charged with the duty of protecting the integrity of the California Beverage Container Recycling Fund (Fund). (PRC section 14552.)

The Division issues certifications to operate recycling centers pursuant to PRC sections 14538 and 14541. Certificates may be issued as probationary for a two-year period. At the expiration of the two-year probationary period, the Division may extend the probationary period, issue a nonprobationary certificate, or revoke the certificate subject to hearing. (PRC section 14541(a),(b).)

PRC section 14591.2(a) authorizes the Division to take disciplinary action against a 'responsible party' that is engaged in dishonesty, negligence, incompetence or fraud. Disciplinary action may include immediate revocation of the certificate. (PRC section 14591.2.) In an action to revoke a certification to operate a recycling center, the Division has the burden of proof.⁶

A 'responsible party' includes, but is not limited to, the certificate holder, registrant, officer, director, or managing employee. (PRC section 14591.2(a).) Bayamdzhyan, as owner, operator and director of Greenyard, is a responsible party pursuant to PRC section 14591.2(a)⁷. Greenyard, as the certificate-holder, is also a responsible party pursuant to PRC section 14591.2(a).

Here, the Division contends that Greenyard and Bayamdzhyan knew, or should have known, that beverage containers they received from the Chino and Vernon Lots were scrap material and ineligible for CRV redemption. Moreover, Greenyard knew or should have known that the individuals and entities delivering this material to Greenyard were not certified by the Department. Consequently, the Division contends, Greenyard knew or should have known that its claims for CRV and other program payments were not only illegal but fraudulent as well.

⁶ Absent a statute or other authority fixing a different standard, the burden of proof requires proof by a preponderance of the evidence. (Evidence Code (EC) section 115.) Except as otherwise provided by law, a party has the burden of proof as to each fact the existence or nonexistence of which is essential to the claim for relief or defense that he is asserting. (EC section 500.) Therefore, the Division meets its burden of proof by establishing by a preponderance of the evidence that the recycling center has engaged in dishonesty, negligence, incompetence or fraud.

At hearing, the Division argued that the burden of proof was on the Respondent to demonstrate to the satisfaction of the Division that Greenyard will operate in accordance with the Act and Regulations. (PRC section 14538(a)(1).) PRC section 14538 applies to applications for certification, not to revocations. However, the Division contends that probationary certification *is part of the application process*. Nonetheless, the Revocation Letter dated February 22, 2021, does not cite section 14538 as the basis for the revocation; rather, it cites section 14591.2. Since the Division did not provide notice that it was revoking Respondent's certificates pursuant to PRC section 14538(a)(1), the Division's argument regarding burden of proof must be disregarded.

⁷ The Parties also stipulated that Bayamdzhyan is a responsible party pursuant to PRC section 14591.2(a).

Section 14597(b) specifically prohibits any person from submitting a fraudulent claim and defines a fraudulent claim as a claim based in whole or in part on false information or falsified documents. Submission of a fraudulent claim is a basis for revocation. (PRC sections 14538(d)(1), 14597(b).) The Division argues that Greenyard's repeated acceptance of the ineligible material "proves that Greenyard has engaged in dishonesty, incompetence, negligence, or fraud", thereby subjecting it to disciplinary action in the form of revocation⁸.

Respondent does not dispute that the beverage containers received by Greenyard from the Chino and Vernon Lots were ineligible for CRV redemption. Rather, Respondent contends that since most of the alleged violations occurred at Greenyard's fully-certified Ontario RC, the Division lacks jurisdiction to revoke its probationary certifications.

Alternatively, Respondent argues that Bayamdzhyan, as owner and operator of Greenyard, took reasonable steps to prevent fraud at the Greenyard RCs. In other words, Bayamdzhyan was not dishonest, negligent, or incompetent in performing his duties and therefore should not be subject to disciplinary action pursuant to section 14591.2.

Finally, Respondent argues that the Division has not proven that Greenyard redeemed the ineligible beverage containers for CRV, contending that the material may have been purchased as scrap.

Jurisdiction

The Division is authorized to revoke probationary certificates subject to an informal administrative hearing. (PRC sections 14591.2(d)(3)(D), 14541(b); Gov. Code (GC) section 11445.20.) Non-probationary certificates, on the other hand, may only be revoked pursuant to a formal administrative hearing. (PRC section 14591.2(a); GC section 11500 et seq.)

Respondent acknowledges that the Division is authorized to revoke probationary certifications pursuant to informal hearing. However, Respondent contends that since Greenyard-Ontario holds a non-probationary certificate, the Hearing Officer is precluded from making findings related to it. In other words, Respondent argues that a revocation pursuant to informal hearing may not be based on violations occurring at a non-probationary RC. Respondent's argument is unsupported by the language of the Act.

PRC section 14591.2(b)(2) authorizes the Division to take disciplinary action, including, revocation, where a responsible party has engaged in fraud, dishonesty, incompetence or negligence *in performing the functions and duties of a certificate holder*. (PRC section 14591.2(b)(2), emphasis added.) Section 14591.2(b)(2) limits disciplinary action based only upon the *nature* of the bad act, not the *location* where the act occurred. The

⁸ CCR section 2535(f) states that: "a certified recycler shall not pay the refund value to, or claim a refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of 100 pounds of aluminum or plastic beverage containers... per day."

bad act must concern the duties and function of a certificate holder- but whether it occurred in a probationary RC, a non-probationary RC, or any other location, is immaterial.

The breadth of the Division's authority to revoke probationary certificates is further demonstrated by PRC section 14591.2(d)(1), which allows the Division to "simultaneously revoke ... all of the certificates held by the responsible party" in taking disciplinary action. In other words, the Division need not show that any particular RC was directly involved in a bad act before revoking its certificate. It is enough that the Division show that the certificate holder is subject to disciplinary action.

Moreover, the violations alleged by the Division here are not limited to Greenyard-Ontario; the alleged violations also concern Greenyard-Cesar Chavez, a probationary RC. Even if Respondent's jurisdiction argument had merit, which it does not, there is a separate basis for the revocation here.

This action does not seek to revoke Greenyard's non-probationary certificate—Greenyard-Ontario, RC166935.001. However, there is nothing in the language of the Act that prevents the Division from relying upon bad acts occurring at Greenyard-Ontario in revoking Greenyard's probationary certificates.

Dishonesty, Incompetence, Negligence or Fraud

Respondent contends that Bayamdzhyan was a responsible owner and operator of Greenyard, and that he took reasonable steps to prevent recycling fraud at his RCs. In other words, Respondent argues that Bayamdzhyan and Greenyard were not dishonest, incompetent or negligent, and therefore not properly subject to disciplinary action in the form of revocation.

In support of its argument, Respondent points to testimony from Division and DOJ witnesses that fraud schemes sometimes occur without the knowledge of the owner/operator. Respondent contends that any fraud that occurred here were the bad acts of rogue employees and cannot be attributed to Greenyard or Bayamdzhyan. Respondent notes that there is no direct evidence that Bayamdzhyan was aware of the fraud scheme.

The fraud that occurred here was not an isolated or minor incident. It occurred multiple times, at multiple Greenyard RCs, involved multiple employees⁹, and involved very large amounts of beverage container material. To wit, between September 10 and November 18, 2020, the DOJ observed five separate deliveries of ineligible material to Greenyard-Ontario totaling *forty-one (41) super-sacks of ineligible beverage containers*. An additional ineligible shipment from Greenyard-Ontario was intercepted at Basic Fibres on November 19. Finally, on December 9, 2020, the DOJ observed several commercial-sized bags of ineligible beverage containers delivered to Greenyard-Cesar Chavez.

⁹ Baymadzhyan contended that he fired three employees associated with the fraud scheme.

Indeed, the record establishes that the fraud was even more wide-spread than revealed by the DOJ investigation. At hearing, Respondent submitted a January 4, 2021, termination letter for Bryan Linares (Linares), an employee at Greenyard-Cesar Chavez. Bayamdzhyan testified that Linares was fired when Bayamdzhyan discovered six super-sacks of ineligible material at Greenyard-Cesar Chavez on January 4. The letter states that "management keeps an eye out on weights of containers sent by all locations of Greenyard Recycling, Inc. and many times the containers purchased by Bryan Linares were thought to be suspicious." The letter goes on to state that on January 2, 2021, Greenyard-Cesar Chavez "sent a container load out that was overly suspicious and the weights were too high for regular use." The letter concludes by stating "multiple times Bryan Linares was warned about purchasing such material¹⁰."

The termination letter and Byamdzhyan's related testimony establish that there were multiple instances of fraud at Greenyard-Cesar Chavez in late-December 2020 and early-January 2021 that were not documented by the DOJ.

Byamdzhyan testified that he was a diligent operator- that he closely monitored Greenyard's daily summaries and shipping reports, and that he regularly made surprise visits to his RCs and inspected outgoing material. However, a fraud of this magnitude would have been immediately discovered and eliminated, if not outright prevented, by a diligent operator. Since that did not occur, we must conclude that Bayamdzhyan was either incompetent, negligent, or dishonest.

The Division has demonstrated by a preponderance of the evidence that Greenyard and Byamdzhyan were negligent, incompetent or dishonest in performing the duties of a certificate holder.

CRV v. Scrap

Finally, Respondent argues that the Division did not prove that the ineligible material delivered to Greenyard was redeemed for CRV. Respondent suggests that the material may have instead been sold as scrap. This is flatly incorrect- the Division has provided direct evidence that Greenyard claimed CRV on a shipment of ineligible material¹¹.

Furthermore, there is extensive circumstantial evidence here that Greenyard claimed CRV on the ineligible material: Byamdzhyan admitted that several suspicious, high-weight shipments went out for CRV from Greenyard-Cesar Chavez; the DOJ observed

¹⁰ Bayamdzhyan testified that he noticed one shipment from Greenyard-Cesar Chavez that was suspicious, i.e. higher weight than expected, in late-December and another on January 2, 2021.

¹¹ On November 19, 2020, Division and DOJ personnel intercepted a Greenyard-Ontario shipment of material to Basic Fibres that contained ineligible baled material. Greenyard submitted a claim signed by Byamdzhyan to the Division seeking CRV for the ineligible load (Division Exhibits 12 and 13). This is direct evidence that an illegal claim for CRV was made. 14595.5(a)(1)(B) provides that "no person shall pay, claim, or receive any refund value ... for any of the following: a previously redeemed container, rejected container, line breakage, or other ineligible material."

six deliveries of ineligible material to Greenyard, but it never saw Greenyard weigh the material or issue a receipt; the DOJ witnessed Greenyard employees mix ineligible beverage containers with other material and then drove the mixed material to Basic Fibres; all the deliveries of ineligible material to Greenyard-Ontario were all made by one driver, Lopez, and the loads greatly exceeded daily limits; Lopez took steps to avoid detection like waiting outside Greenyard until regular customers left, and; finally, Greenyard produced no scrap receipts in response to the Division's subpoena.

The direct and circumstantial evidence provided by the Division establishes by a preponderance of the evidence that Greenyard made claims on ineligible beverage containers.

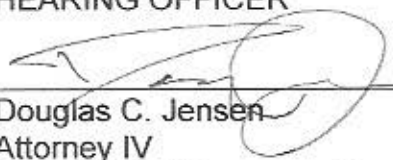
VI. DECISION AND ORDER

The Division's February 22, 2021, decision to revoke Respondent's certifications, effective immediately is sustained.

IT IS SO ORDERED.

DATED: 8/20/21

HEARING OFFICER



Douglas C. Jensen
Attorney IV
Department of Resources Recycling
and Recovery (CalRecycle)