

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

-----X
GREEK MOUNTAIN DAIRY, LLC

Petitioner,

-against-

VILLAGE OF GOSHEN

Respondent.
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**STIPULATION OF
SETTLEMENT**

Index No. 2012-4466

WHEREAS, Greek Mountain Dairy, LLC, hereinafter referred to as “Petitioner,” is the owner of certain real property located at 1-3 Dikeman Drive, Goshen, New York which real property is located within the Village of Goshen, New York; and

WHEREAS, the Village of Goshen, hereinafter referred to as “Respondent;” provides Petitioner with municipal sewer service and bills Petitioner therefore on a quarterly basis; and

WHEREAS, Petitioner commenced this proceeding on May 30, 2012 to challenge a certain sewer bill issued by the Respondent; and

WHEREAS, the said sewer bill was dated February 1, 2012 and covered the months of September, 2011; October, 2011; November, 2011; and December 2011 and was in the amount of \$27,188.00; and

WHEREAS, Petitioner heretofore paid the full amount of the sewer bill “under protest” thereby preserving their right to challenge the said bill; and

WHEREAS, certain irregularities have been identified with the meter measuring the flow from Petitioner’s property during the billing period in question to the extent that

the meter had to be re-calibrated and the accuracy of the meter reading for the billing period at issue herein has been called into question; and

WHEREAS, the flow from Petitioner's facility appears to have included substantial amounts of inflow and infiltration for the period in question; and

WHEREAS, Petitioner has undertaken extensive repair, at substantial cost, at their facility to minimize to a great extent the inflow and infiltration being discharged into the Respondent's municipal sanitary sewer system; and

WHEREAS, Petitioner and Respondent wish to enter into this Stipulation of Settlement to resolve the issues as they relate to the sewer bill issued by Respondent on February 1, 2012 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, THE PARTIES STIPULATE AND AGREE AS FOLLOWS:

1. Petitioner and Respondent agree that the sewer bill issued by Respondent on February 1, 2012 shall be reduced from \$27,188.00 to \$10,000.00.
2. Beginning with the next sewer bill issued by Respondent, Petitioner shall be entitled to a credit on its future sewer invoicing in the amount of \$17,188.00.
3. The Respondent shall continue to calculate the sewer charges consistent with the methodology heretofore employed by Respondent and agreed upon by Petitioner and Respondent.
4. Petitioner shall be entitled to a credit in the amount of \$17,188.00 which credit shall be accrued on successive sewer billings, commencing with the

next sewer billing issued by the Respondent, until such time as the \$17,188.00 credit has been properly and fully given to Petitioner.

5. This Settlement Stipulation is meant to encompass only the dispute arising with regard to the February 1, 2012 sewer billing. All other agreements between the parties, including those items specifically addressed and set forth in Paragraphs 3 and 4 of the Settlement Stipulation previously entered into between the parties on September 23, 2011 shall remain in full force and effect.
6. Petitioner and Respondent represent that they have consulted with legal counsel, that they have the requisite authority to enter into this Stipulation, that they have fully discussed the terms and conditions of this Stipulation with their counsel and that they fully understand and voluntarily agree to the terms and conditions of this Stipulation.
7. This Stipulation constitutes the entire understanding of the parties hereto with respect to its subject matter. Except as expressly set forth in this Stipulation, there are no representations, warranties or inducements whether oral, written, expressed or implied that in any way affect or condition the validity of this Stipulation or any of its terms and conditions. No provision in this order will be presumptively construed against any party hereto.

GREEK MOUNTAIN DAIRY, LLC

By: _____
Jerry J. Makris, Member

VILLAGE OF GOSHEN

By: _____
Kyle Roddey, Mayor

DICKOVER, DONNELLY, DONOVAN & BIAGI, LLP

By: _____
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BLUSTEIN, SHAPIRO, RICH & BARONE, PLLC

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