

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION

**SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff/Applicant**

v.

**KEN BACON AND KEN BACON, JR.
d/b/a BACON TIMBER HARVESTING,
Respondents/Defendants**

**SECRETARY, VERMONT
AGENCY OF NATURAL RESOURCES,
Plaintiff/Applicant**

v.

**KEN BACON AND KEN BACON, JR.,
Respondents/Defendants**

}
}
}
}
}
}
}
}
}
}
}
}
}
}
}

**Docket No. 101-6-09 Vtec.
Docket No. 102-6-09 Vtec.**

Docket No. 6-1-11 Vtec.

ORDER COMPELLING DISCOVERY

This matter came before the Court pursuant to a Motion to Compel Discovery filed by the Agency of Natural Resources on September 28, 2015. The Court held a hearing on the Motion on October 27, 2015. John Zaikowski, Esq. appeared on behalf of the Agency. Jason Sawyer, Esq. appeared on behalf of Respondents; Ken Bacon, Sr. was present with his attorney, as well as Mrs. Bacon, a non-party who assists the respondents with their bookkeeping.

Based upon the proceedings, the Court grants the Agency's Motion and ORDERS that no later than January 29, 2016, Respondents shall provide the following information to the Agency:

1. Any and all invoices, statements, and receipts documenting "Income" in 2013 and 2014, as identified in Exhibit A of Respondents' 5/31/15 Motion for Relief from Stipulation.
2. Any and all invoices, statements, and receipts for expenditures relating to "Repair and Maintenance" in 2013 and 2014, as identified in Exhibit A of Respondents' 5/31/15 Motion for Relief from Stipulation.

3. Any and all invoices, statements, and receipts for expenditures relating to “Gas, Oil, Diesel” in 2013 and 2014, as identified in Exhibit A of Respondents’ 5/31/15 Motion for Relief from Stipulation.
4. Any and all invoices, statements, and receipts for expenditures relating to “Employment” in 2013 and 2014, as identified in Exhibit A of Respondents’ 5/31/15 Motion for Relief from Stipulation.
5. Any and all invoices, statements, and receipts for expenditures relating to “Utilities / Supplies” in 2013 and 2014, as identified in Exhibit A of Respondents’ 5/31/15 Motion for Relief from Stipulation.
6. Any and all mill slips, invoices, statements, and receipts relating to “Stumpage” in 2013 and 2014, as identified in Exhibit A of Respondents’ 5/31/15 Motion for Relief from Stipulation.
7. Copies of 2012, 2013 and 2014 tax returns for Ken Bacon, Sr., whether filing individually or jointly.
8. Copies of 2012, 2013 and 2014 tax returns for Ken Bacon, Jr., whether filing individually or jointly.
9. Copies of all logging contracts executed in 2013, 2014, and 2015.
10. Copies of all liens filed in 2013, 2014, and 2015.
11. Records of any and all collections actions initiated, pending, or completed in 2013, 2014, and 2015.
12. Any and all invoices, statements, and receipts for expenditures relating to the purchase or rental of any and all logging equipment owned, operated, or used by Ken Bacon, Sr. and Ken Bacon, Jr. in 2013, 2014, and 2015.
13. Any and all invoices, statements, and receipts for expenditures relating to the construction of the oversized garage on Respondent Ken Bacon Sr.’s property located at East Albany Road, Barton, VT.

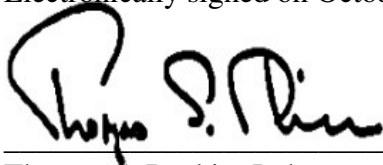
Given the age of these coordinated enforcement proceedings, including the time periods both before and after judgment was entered, and the continuances already granted by the Court, the Court is not inclined to grant any further continuances.

In the event that it is shown to the Court that the Respondents have failed to provide all documents and disclosures directed by this Order, the Court will entertain a motion by the Agency to limit the respondents ability to present any non-disclosed documents or other information at trial in support of Respondent’s allegation of their present inability to pay towards the Judgment Orders already issued by the Court.

Lastly, the Court has continued the Show Cause Hearing that was originally scheduled for October 27, 2015. The Court intends to re-schedule the Show Cause Hearing for thirty (30) days after the discovery response deadline established by this Order (i.e.: January 29, 2016). Therefore, the Court further directs that the parties file by **Tuesday, December 1, 2015**, a letter with a list of their and their witnesses' unavailable date for hearing during the month of **February, 2016**.

SO ORDERED

Electronically signed on October 28, 2015 at Newfane, Vermont, pursuant to V.R.E.F. 7(d).

A handwritten signature in black ink, appearing to read "Thomas S. Durkin", is written over a horizontal line.

Thomas S. Durkin, Judge
Environmental Division