

## **EXHIBIT J**

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Alleged Violations of Article 27 of the  
New York State Environmental Conservation Law and  
Title 6 of the Official Compilation of the Codes, Rules and  
Regulations of the State of New York,

- by -

20 Rewe Street, Ltd.,

NYSDEC File No.  
R2-20210416-52

Respondent.

-----X  
**RESPONDENT 20 REWE STREET, LTD.'S**  
**FIRST NOTICE OF DISCOVERY AND INSPECTION**

Pursuant to 6 NYCRR § 622.7 and N.Y. Civil Practice Law and Rules (“CPLR”) article 31, Respondent 20 Rewe Street, Ltd. (“20 Rewe Street”) hereby requests that the Department of Environmental Conservation (the “Department” or the “DEC”) produce for inspection and copying the following documents and things which are within the Department’s possession, custody, or control. Pursuant to the ALJ’s order dated March 5, 2024, the documents requested shall be produced within forty-five (45) days of the service of this notice, at the offices of Wuersch & Gering LLP, 100 Wall Street, 10th Floor, New York, N.Y. 10005.

**DEFINITIONS**

In addition to the definitions set forth in the CPLR (as modified by the Department’s Uniform Enforcement Hearing Procedures), the following definitions apply to each discovery request contained herein, and are deemed to be incorporated in each said request:

1. The term "communication" includes, without limitation, any oral or written transmission or receipt of words or information, by whatever manner or means, regardless of how

or by whom the communication was initiated, including, without limitation: (i) any written contact by means such as a letter, memorandum, telegram, telex, e-mail, text message, instant message, or facsimile; and (ii) oral contact by means such as face-to-face meetings or the telephone. Communications with business entities include communications by or with any officers, directors, employees, agents, or other representatives of such entities.

2. The term "concerning" includes approving, based on, bearing on, commenting on, constituting, dealing with, describing, discussing, evidencing, impacting, involving, mentioning, pertaining to, referring to, reflecting, or relating to (whether legally, factually, or otherwise, and whether in whole or in part).

3. The term "correspondence" means any written communication, including, without limitation, any letter, memorandum, e-mail, or other writing.

4. The term "document" includes, without limitation, and whether in hard copy or electronic form (including, but not limited to, electronic mail, word documents (e.g., Microsoft Word documents), Portable Document Format (PDF) files, Joint Photographic Experts Group (JPEG) files, Tagged Image File Format (TIFF) files, or Graphic Interchange Format (GIF) files) or graphic matter of any kind, type, nature, or description, in whatever form (e.g., final and draft versions): letters, correspondence, minutes, contracts, agreements, resolutions, memoranda (whether of visits, telephone calls, or otherwise), internal memoranda, appointment calendars, schedules, e-mails, electronic data interchange or computer to computer exchange of standardized business information, notes, books, books of account, indices, printed forms (whether official or unofficial), audio, photographic or video recording, publications, press releases, rulings, directives, notices, brochures, pamphlets, guidelines, manuals, instructions, records, summaries or abstracts, reports, files, phone messages, articles, diaries, notebooks, journals, ledgers, journal entries, worksheets, audits, lists, logs, resumes, compilations,

computations, data processing cards, computer storage tapes or discs, computer chips, printouts, information contained in, on, or retrievable from computer programs, computer storage tapes or discs, computer chips, bulletins, written interrogatories and/or answers, charts, exhibits, blueprints, drawings (of any nature), schematics, diagrams, graphs, tables, photographs, recordings, speeches, telegrams, cables, telex messages, microfilms, notes, opinions, studies, papers, analyses, evaluations, proposals, budget materials, invoices, receipts, financial statements, shipping documents, checks (front and reverse), vouchers, deposit slips, drafts, money orders or other financial instruments, specifications, applications, motions, petitions, answers, responses, replies, protests, verified statements, transcripts, attachments, filings, submissions, pleadings and other data compilation of any other writing, recorded, transcribed, punched, taped, filed or other graphic matter, including any drafts of the foregoing items and any copy or reproduction of any of the foregoing items upon which any notation, work, figure or form is recorded or has been made which does not appear on the original or as to whose existence, either past or present, the responding party has any knowledge or information. The term "document" or "documents" includes each copy that is not identical to the original or to any other produced copy and any drafts of any document or any working papers or drafts related thereto. In instances where two or more exact duplicates of any document exist, this request calls for the most legible copy. For the avoidance of doubt, the terms "document" and "documents" include all electronically stored information ("ESI") to the full extent discoverable as of right pursuant to 6 NYCRR § 622.7(a)(2).

5. The term "person" means a natural person, corporation, association, company, subsidiary, firm, partnership, joint venture, trust, estate, agency, department, division, bureau, governmental entity, judicial person or entity, and any other legal entity.

6. The term "20 Rewe Street" means Respondent 20 Rewe Street, Ltd.

7. The term “Department” or the “DEC” means the Department of Environmental Conservation.

8. The terms "you," "your," or "yours" mean the Department and any of its affiliates, partners, agents, legal counsel, or any other person acting on the Department’s behalf.

9. The term “Site” means 171 Lombardy Street and 514 Varick Avenue, Brooklyn New York (Brooklyn Tax District, Block 02821, Lot 0001), as described in the deed and identified as NYSDEC Site Code 224182.

10. The term “Samples” means all physical samples taken at any time.

11. The term “Meeker Avenue Plume Track Down”, when referring to documents, means the entirety of all documents concerning or related to the investigation of the soil, groundwater and air conducted by DEC and any outside contractor at Site No. 224121.

12. The term “Motion” means the DEC’s motion for an order without hearing and in lieu of complaint.

### **INSTRUCTIONS**

The following instructions apply to each of the document requests set forth herein, and are deemed to be incorporated into each of them:

1. In producing documents and other materials, you are requested to furnish all documents or things in your possession, custody, or control, regardless of whether such documents or materials are possessed directly by you or your agents, employees, representatives, affiliates, or investigators, or by your attorneys or their agents, employees, representatives, or investigators.

2. Documents are to be produced in full. Redacted documents will not constitute compliance with these requests. If any requested document cannot be produced in full, produce it to the extent possible, indicating which document or portion of that document is being withheld

and the reasons for withholding production of the document. If any part of a document is responsive to any request, please produce the entire document.

3. Any alteration of a responsive document, including any marginal notes, handwritten notes, underlining, date stamps, received stamps, endorsed or filed stamps, drafts, revisions, modifications, and other versions of a final document are responsive documents in their own right and must be produced.

4. If you are unable to produce a document in response to any request, so state and indicate whether the document ever existed or whether the document once existed but cannot be located. If any document once was, but is no longer in your possession, custody, or control, state the whereabouts of any such document when last in your possession, custody, or control, state the date and manner of its disposition, and identify its last known custodian. To the extent any document was lost or destroyed, produce any documents which support your assertion that the document was lost or destroyed, and provide the date thereof.

5. If you file a timely objection to any portion of a request, definition, or instruction, provide a response to the remaining portion.

6. The terms defined above and the individual requests for production and inspection should be construed broadly to the fullest extent of their meaning in a good faith effort to comply with the Civil Practice Law and Rules (as modified by the Department's Uniform Enforcement Hearing Procedures).

7. These document requests are continuing and require supplemental responses as specified in CPLR § 3101(h), which states that "[a] party shall amend or supplement a response previously given to a request for disclosure promptly upon the party's thereafter obtaining information that the response was incorrect or incomplete when made, or that the response, though correct and complete when made, no longer is correct and complete, and the

circumstances are such that a failure to amend or supplement the response would be materially misleading."

8. The fact that a document is produced by another party does not relieve you of the obligation to produce your copy of the same document, even if the two documents are identical in all respects.

9. In producing documents, you are requested to produce the original of each document requested together with all non-identical copies and drafts of that document. If the original of any document cannot be located, a copy shall be provided in lieu thereof, and shall be legible and bound or stapled in the same manner as the original.

10. Documents shall be produced either (a) as they are kept in the usual course of business (in which case they shall be produced in such fashion as to identify the department, branch, or office in whose possession they were located and, where applicable, the natural person in whose possession they were found and the business address of each document's custodian(s)), or (b) segregated as responsive to a specific request enumerated in Respondent 20 Rewe Street, Ltd.'s First Notice of Discovery and Inspection with such specific request identified.

11. All documents shall be produced in the file folder, envelope, or other container in which the documents are kept or maintained by you. If, for any reason, the container cannot be produced, produce copies of all labels or other identifying marks.

12. Documents attached to each other should not be separated.

13. Documents not otherwise responsive to the requests herein shall be produced if such documents mention, discuss, refer to, or explain the documents which are called for by the requests herein or if such documents are attached to documents called for by the requests herein and constitute routing slips, transmittal memoranda, letters, comments, evaluations, or similar materials.

14. Copies of all e-mails, computer tapes, disks (hard or floppy), cards, files, CD-ROMs, DVDs, or other storage media containing information or data responsive to the requests herein must be made (and, if necessary, translated by the responding party into reasonable useable form) and produced.

15. If you withhold production of any document or portion of any document responsive to the requests herein based upon any privilege, please provide the following information for each document or portion of any document withheld:

- a. The type of document;
- b. The general subject matter of the document or the portion withheld;
- c. The date of the document;
- d. The author(s) of the document and their title(s);
- e. The recipient(s) of the document (as well as copies) and their title(s); and
- f. The basis for withholding such document or portion of a document.

16. Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition except where such words have a usual custom and usage definition in your trade or industry, in which case they shall be interpreted in accordance with such usual custom and usage definition of which you are aware.

17. Unless otherwise specified, the time period to which these document requests refer is January 1, 2007 to the present day. However, if a document prepared before January 1, 2007 is necessary for a correct or complete understanding of any document covered by these requests, the earlier document shall be produced as well. If any document is undated and the date of the preparation cannot be determined, the document shall be produced if otherwise responsive to these requests.



## **DOCUMENT REQUESTS**

1. Any and all documents concerning or relating to the Site, including, but not limited to, hand written notes, invoices, receipts, books of account, ledgers, financial projections, budgets, correspondence, sampling plans, health & safety plans, community air monitoring plans, Phase I, Phase II, and other investigatory plans (including, but not limited to, Remedial Investigation (RI) Plans, Remedial Action (RA) Plans, and Remedial Action Reports (RARs)), e-mails, records of telephone calls, and press clippings.
2. Any and all documents concerning or relating to Samples concerning or relating to the Site (including, but not limited to, hand written notes, invoices, receipts, books of account, ledgers, financial projections, budgets, correspondence, sampling plans, health & safety plans, Phase I, Phase II, and other investigatory plans, including, but not limited to, Remedial Investigation (RI) Plans, Remedial Action (RA) Plans, and Remedial Action Reports (RARs), e-mails, records of telephone calls, and press clippings).
3. Any and all documents concerning or related to the Meeker Avenue Plume Track Down (NYSDEC Site Code 224121), Acme Steel/Metal Works (NYSDEC Site Code 224131), Acme Steel/Brass Foundry (NYSDEC Site Code 224132), Acme Steel Partition Co. (NYSDEC Site Code 224192), and/or Klink Cosmo Cleaners (NYSDEC Site Code 224130) locations, including, but not limited to, reports, hand written notes, invoices, receipts, accounting books and ledgers, financial projections, budgets, correspondence, sampling plans, health & safety plans, Phase I, Phase II, and other investigatory plans, e-mails, records of telephone calls, and press clippings.
4. Any and all documents concerning or related to Environmental Impact or Health and Safety of the Site and/or any other location impacted by the Site, including, but not limited to, Acme Steel/Metal Works (NYSDEC Site Code 224131), Acme Steel/Brass Foundry (NYSDEC Site Code 224132), Acme Steel Partition Co. (NYSDEC Site Code 224192), and/or Klink Cosmo

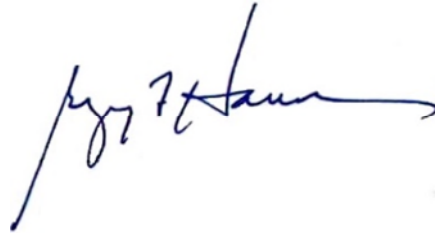
Cleaners (NYSDEC Site Code 224130), including, but not limited to, reports, hand written notes, invoices, receipts, accounting books and ledgers, financial projections, budgets, correspondence, and press clippings.

5. All documents referring or relating to the allegations of the Motion in any way not specifically requested above.

Dated: New York, N.Y.  
March 8, 2024

Respectfully submitted,

**WUERSCH & GERING LLP**

A handwritten signature in blue ink, appearing to read "Gregory F. Hauser", with a long horizontal flourish extending to the right.

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Ltd.*

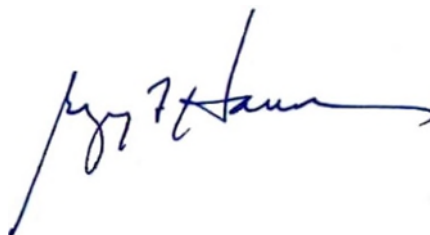
**CERTIFICATE OF SERVICE**

I hereby certify that on March 8, 2024, I caused the foregoing Respondent 20 Rewe Street, Ltd.'s First Notice of Discovery and Inspection to be served on counsel for the Department of Environmental Conservation via electronic mail to the email addresses below, and to all other active counsel via the email addresses listed below.

Dated: New York, N.Y.  
March 8, 2024

Respectfully submitted,

**WUERSCH & GERING LLP**

A handwritten signature in blue ink, appearing to read "Gregory F. Hauser", is written over a horizontal line.

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