

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2006-1350-DCL-E **TCEQ ID:** RN103955639 **CASE NO.:** 30850  
**RESPONDENT NAME:** Kyu Enterprise, Inc. dba K's Cleaners

Page 1 of 2

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY	<input checked="" type="checkbox"/> DRY CLEANER REGISTRATION	

**SITE WHERE VIOLATION(S) OCCURRED:** K's Cleaners, 101 East Southwest Parkway, Suite 101, Lewisville, Denton County

**TYPE OF OPERATION:** Dry cleaning facility

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on February 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Libby Hogue, Enforcement Division, Enforcement Section II, MC 219, (512) 239-1165; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**TCEQ Field Investigator:** Ms. Paula Sen, DFW Regional Office, MC R-04, (817) 588-5800

**Respondent:** Mr. Richard Song, President/Registered Agent, Kyu Enterprise, Inc. dba K's Cleaners, 101 East Southwest Parkway, Suite 101, Lewisville, Texas 75067

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 24, 2006</p> <p>Date of NOE Relating to this Case: August 10, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. One violation was documented.</p> <p><b>WASTE</b></p> <p>Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for the Facility [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH &amp; SAFETY CODE § 374.102].</p>	<p>Total Assessed: \$889</p> <p>Total Deferred: \$178  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$105 (remaining \$606 due in 6 monthly payments of \$101 each)</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Kyu Enterprise, Inc. completed and submitted the required registration form to the TCEQ on June 16, 2006.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	14-Aug-2006	Screening	19-Aug-2006	EPA Due	
	PCW	21-Aug-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Kyu Enterprise, Inc. dba K's Cleaners.
Reg. Ent. Ref. No.	RN103955639
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	30850	No. of Violations	1
Docket No.	2006-1350-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Libby Hogue
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$50

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$1,185
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: Respondent does not have any other enforcement actions having occurred within the last five years.

<b>Culpability</b>	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	25% Reduction	Subtotal 5	-\$296
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Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with a small x)

Notes: The respondent came into compliance on June 16, 2006, before the Notice of Enforcement was issued.

<b>Economic Benefit</b>	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$10	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$250	

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$889
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$889
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<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$889
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<b>DEFERRAL</b>	20% Reduction	Adjustment	-\$178
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$711
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<b>Screening Date</b>	19-Aug-2006	<b>Docket No.</b>	2006-1350-DCL-E	<b>PCW</b>
<b>Respondent</b>	Kyu Enterprise, Inc. dba K's Cleaners		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	30850	PCW Revision May 19, 2005		
<b>Reg. Ent. Reference No.</b>	RN103955639			
<b>Media [Statute]</b>	Drycleaner			
<b>Enf. Coordinator</b>	Libby Hogue			

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

>> Repeat Violator (Subtotal 3)

No  Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer  Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

**Compliance History Notes** Respondent does not have any other enforcement actions having occurred within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b>	19-Aug-2006	<b>Docket No.</b>	2006-1350-DCL-E	<b>PCW</b>
<b>Respondent</b>	Kyu Enterprise, Inc. dba K's Cleaners			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	30850			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN103955639			
<b>Media [Statute]</b>	Drycleaner			
<b>Enf. Coordinator</b>	Libby Hogue			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 337.11(e)			
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 374.102			
<b>Violation Description</b>	The respondent failed to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility.			

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

**Violation Events**

Number of Violation Events

mark only one use a small x

daily	<input checked="" type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty

Two hundred thirty-seven daily events are recommended from the September 1, 2005 deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent: Kyu Enterprise, Inc. dba K's Cleaners  
 Case ID No: 30850  
 Reg. Ent. Reference No: RN103955639  
 Media [Statute]: Drycleaner  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$250	01-Sep-2005	16-Jun-2006	0.8	\$10	n/a	\$10
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date that the completed registration form was due and the final date is the date the respondent came into compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$250 TOTAL \$10

# Compliance History

Customer/Respondent/Owner-Operator:	CN602457327 Kyu Enterprise, Inc.	Classification: AVERAGE BY Rating: 3.01 DEFAULT
Regulated Entity:	RN103955639 K's CLEANERS	Classification: AVERAGE BY Site Rating: 3.01 DEFAULT
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # 77729 (SWR)
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID TXD988000188
Location:	101 E SOUTHWEST PKWY STE 101, LEWISVILLE, TX, Rating Date: 9/1/2005 Repeat Violator: NO 75067	
TCEQ Region:	REGION 04 - DFW METROPLEX	
Date Compliance History Prepared:	August 21, 2006	
Agency Decision Requiring Compliance	Enforcement	
Compliance Period:	August 14, 2001 to August 14, 2006	
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History		
Name:	<u>Libby Hogue</u>	Phone: <u>512-239-1165</u>

## Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | N/A        |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

UNITED STATES DISTRICT COURT

Case No. 1:11-cv-00001  
USDC District of Columbia  
In re: [Illegible]

Case No. 1:11-cv-00001  
USDC District of Columbia  
In re: [Illegible]

Case No. 1:11-cv-00001  
USDC District of Columbia  
In re: [Illegible]

[Illegible text]





upon full compliance with the terms of this Agreed Order. If Kyu Enterprise, Inc. fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Kyu Enterprise, Inc. to pay all or part of the deferred penalty.

The remaining amount of Six Hundred Six Dollars (\$606) of the administrative penalty shall be payable in six monthly payments of One Hundred One Dollars (\$101) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Kyu Enterprise, Inc. fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Kyu Enterprise, Inc. to meet the payment schedule of this Agreed Order constitutes the failure by Kyu Enterprise, Inc. to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Kyu Enterprise, Inc. have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Kyu Enterprise, Inc. completed and submitted the required registration form to the TCEQ on June 16, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Kyu Enterprise, Inc. has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, Kyu Enterprise, Inc. is alleged to have failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for the Facility, in violation of 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102, as documented during an investigation conducted on May 24, 2006.

...the ... of ...

... ..

...the ... of ...

### III. DENIALS

Kyu Enterprise, Inc. generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Kyu Enterprise, Inc. pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Kyu Enterprise, Inc.'s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kyu Enterprise, Inc. dba K's Cleaners, Docket No. 2006-1350-DCL-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Kyu Enterprise, Inc. Kyu Enterprise, Inc. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If Kyu Enterprise, Inc. fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Kyu Enterprise, Inc.'s failure to comply is not a violation of this Agreed Order. Kyu Enterprise, Inc. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Kyu Enterprise, Inc. shall notify the Executive Director within seven days after Kyu Enterprise, Inc. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Kyu Enterprise, Inc. shall be made in writing to the Executive Director. Extensions are not effective until Kyu Enterprise, Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Kyu Enterprise, Inc. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101

LECTURE NOTES

PLATO'S THEORY OF FORMS

THE DIVISION OF LABOR

THE CITY AND THE SOUL

THE EDUCATION OF THE GUARDIANS

THE REASONABLE MAN

6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Kyu Enterprise, Inc., or three days after the date on which the Commission mails notice of the Order to Kyu Enterprise, Inc., whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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10/10/10

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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

3/2/07  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

11-1-06  
\_\_\_\_\_  
Date

RICHARD K SONG  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Kyu Enterprise, Inc. dba K's Cleaners

President  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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