

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1354-DCL-E TCEQ ID: RN104065925 CASE NO.: 30871
RESPONDENT NAME: PHUONG TAM ENTERPRISES, INC. DBA KING CLEANERS

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 16805 El Camino Real, Houston, Harris County</p> <p>TYPE OF OPERATION: Dry cleaning facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Alfred A. Oloko, Litigation Division, MC R-12, (713) 422-8918 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Section IV, MC 219, (512) 239-2504 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Mr. Phoung Vu, Registered Agent, Phuong Tam Enterprises, Inc. dba King Cleaners, 1001 Pineloch Drive, Suite 800, Houston, Texas 77062 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

RESPONDENTS NAME: PHUONG TAM ENTERPRISES, INC. DBA KING CLEANERS
DOCKET NO.: 2006-1354-DCL-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: May 30, 2006</p> <p>Date of NOE Relating to this Case: August 17, 2006 (NOE)</p> <p>Background Facts: The EDPRP in this case was filed on January 29, 2007. The Respondent received the EDPRP on January 31, 2007, as evidenced by the signature on the green card. The Respondent failed to file an Answer to the EDPRP and failed to contact the attorney for the ED, hence this default.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report</p> <p>DCL:</p> <p>Failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility [30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102].</p>	<p>Total Assessed: \$1,209</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$1,209</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <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>Ordering Provisions</p> <p>The Respondent completed and submitted the required registration form for a dry cleaning facility on June 6, 2006.</p>



PCW: ws3
Penalty Calculation Worksheet (PCW)

DATES	Assigned	21-Aug-2006	Screening	21-Aug-2006	EPA Due	
	PCW	10-Jan-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Phuong Tam Enterprises, Inc. dba King Cleaners
Reg. Ent. Ref. No.	RN104065925
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	30871	No. of Violations	1
Docket No.	2006-1354-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Deana Holland
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$50

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,185
---	-------------------	----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2% Enhancement	Subtotals 2, 3, & 7	\$24
---------------------------	----------------	--------------------------------	-------------

Notes: Enhancement for one NOV without same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	------------

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
------------------------------------	--------------	-------------------	------------

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)
Notes	The respondent came into compliance on June 6, 2006. The respondent does not meet the good faith criteria due to default status.	

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
-------------------------	-----------------	-------------------	------------

Total EB Amounts	\$10	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$250	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,209
-----------------------------	-----------------------	----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
---	------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$1,209
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,209
-----------------------------------	-------------------------------	----------------

DEFERRAL	Reduction	Adjustment	\$0
-----------------	-----------	------------	------------

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$1,209
------------------------	----------------

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Screening Date 21-Aug-2006 **Docket No.** 2006-1354-DCL-E **PCW**

Respondent Phuong Tam Enterprises, Inc. dba King Cleaners *Policy Revision 2 (September 2002)*

Case ID No. 30871 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN104065925

Media [Statute] Drycleaner

Enf. Coordinator Deana Holland

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 337.10(a)

Secondary Rule Cite(s) Tex. Health & Safety Code § 374.102

Violation Description The respondent failed to complete and submit the required registration form to the TCEQ for a dry cleaning and/or drop station facility.

Base Penalty \$50

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

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	Percent
			X			

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$45

Base Penalty Subtotal \$5

Violation Events

Number of Violation Events 237

mark only one use a small x

daily	X
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,185

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 \$10

Violation Final Penalty Total \$1,209

This violation Final Assessed Penalty (adjusted for limits) \$1,209

Economic Benefit Worksheet

Respondent: Phuong Tam Enterprises, Inc. dba King Cleaners
 Case ID No: 30871
 Reg. Ent. Reference No: RN104065925
 Media [Statute]: Drycleaner
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

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	06-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: n/a

Approx. Cost of Compliance \$250

TOTAL \$10

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

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
PHUONG TAM ENTERPRISES,
INC. DBA KING CLEANERS,
RN104065925

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1354-DCL-E

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 374, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Phuong Tam Enterprises, Inc. dba King Cleaners (“Phuong Tam Enterprises”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Phuong Tam Enterprises owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning facility located at 16805 El Camino Real, Houston, Harris County, Texas (the “Facility”).
2. The Facility is a retail commercial establishment that operates or has operated, in whole or in part for the purpose of cleaning garments or other fabrics using a process that involves any use of dry cleaning solvents. As such, the Facility is a dry cleaning facility as defined in TEX. HEALTH & SAFETY CODE § 374.001(7).
3. During an inspection on May 30, 2006, a TCEQ Houston Regional Office investigator documented that Phuong Tam Enterprises failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility.
4. Phuong Tam Enterprises received notice of the violation on or about August 22, 2006.
5. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an

Enforcement Order Assessing an Administrative Penalty Against Phuong Tam Enterprises, Inc. dba King Cleaners” (the “EDPRP”) in the TCEQ Chief Clerk’s office on January 29, 2007..

6. By letter dated January 29, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Phuong Tam Enterprises with notice of the EDPRP. According to the return receipt “green card,” Phuong Tam Enterprises received notice of the EDPRP on January 31, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Phuong Tam Enterprises received notice of the EDPRP, provided by the Executive Director. Phuong Tam Enterprises failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Phuong Tam Enterprises is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 374 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3., Phuong Tam Enterprises failed to complete and submit the required registration form to the TCEQ for a dry cleaning facility, in violation of 30 TEX. ADMIN. CODE § 337.10(a) and TEX. HEALTH & SAFETY CODE § 374.102
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Phuong Tam Enterprises with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Phuong Tam Enterprises has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Phuong Tam Enterprises and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051 and TEX. HEALTH & SAFETY CODE § 374.252(c), the Commission has the authority to assess an administrative penalty against Phuong Tam Enterprises for violations of the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of one thousand two hundred nine dollars (\$1209.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Phuong Tam Enterprises is assessed an administrative penalty in the amount of one thousand two hundred nine dollars (\$1209.00) for violation of TEX. HEALTH & SAFETY CODE ch. 374 and rules of the TCEQ. The payment of this administrative penalty and Phuong Tam Enterprises' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Phuong Tam Enterprises; Docket No. 2006-1354-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 Executive Director recognizes that Phuong Tam Enterprises completed and submitted the required registration form for a dry cleaning facility to the TCEQ on June 6, 2006.
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Phuong Tam Enterprises. Phuong Tam Enterprises is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. If Phuong Tam Enterprises fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Phuong Tam Enterprises' failure to comply is not a violation of this Order. Phuong Tam Enterprises shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Phuong Tam Enterprises shall notify the Executive Director within seven days after Phuong Tam Enterprises becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Phuong Tam Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Phuong Tam Enterprises receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Phuong Tam Enterprises if the Executive Director determines that Phuong Tam Enterprises has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Phuong Tan Enterprises, Inc. dba King Cleaners
Docket No. 2006-1354-DCL-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

