

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2179-PST-E TCEQ ID: RN102855053 CASE NO.: 31842
 RESPONDENT NAME: IMRAN KHAN DBA STOP N DRIVE

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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 checked="" 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 type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1708 Highway 146 North, La Porte, Harris County</p> <p>TYPE OF OPERATION: A convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 July 15, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933 TCEQ Regional Contact: Ms. Nicole Bealle, Regional Office, MC R-12, (713) 767-3500 Respondent: Mr. Imran Khan, Owner, P.O. Box 691773, Houston, Texas 77269 Respondent's Attorney: Not represented by counsel.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Dates of Investigation Relating to this Case: November 3, 2006</p> <p>Date of NOE Relating to this Case: November 16, 2006</p> <p>Background Facts:</p> <p>The NOE was issued as a result of a record review which showed that the Facility lacked financial assurance from March 17, 2006 to July 14, 2006. The Respondent has submitted documentation showing that the Facility had financial assurance beginning on July 14, 2006.</p> <p>The Respondent contacted the Litigation Division regarding resolving the enforcement action. The Respondent signed an Agreed Order on April 3, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum underground storage tanks ("USTs") [TEX. ADMIN CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$1,580</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$280/\$1,300</p> <p>The Respondent has paid \$280 of the administrative penalty. The remaining amount of \$1,300 shall be payable in thirteen monthly payments of \$100 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes that the Respondent achieved compliance on July 14, 2006 by obtaining financial assurance for the Facility.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	20-Nov-2006			
	PCW	21-Feb-2007	Screening	30-Nov-2006	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Imran Khan dba Stop N Drive				
Reg. Ent. Ref. No.	RN102855053				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	31842	No. of Violations	1		
Docket No.	2006-2179-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Clinton Sims		
Multi-Media		EC's Team	8		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History *Subtotals 2, 3, & 7*

4% Enhancement

Notes

Culpability *Subtotal 4*

No 0% Enhancement

Notes

Good Faith Effort to Comply *Subtotal 5*

25% Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)

Notes

Subtotal 6

0% Enhancement*

Total EB Amounts *Capped at the Total EB \$ Amount

Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL *Adjustment*

Reduction

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

Notes

PAYABLE PENALTY

Screening Date 30-Nov-2006

Docket No. 2006-2179-PST-E

PCW

Respondent Imran Khan dba Stop N Drive

Policy Revision 2 (September 2002)

Case ID No. 31842

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102855053

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	2	4%
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 submitted)	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%

Please Enter Yes or No

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) 4%

>> 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

The respondent received two NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 30-Nov-2006

Docket No. 2006-2179-PST-E

PCW

Respondent Imran Khan dba Stop N Drive

Policy Revision 2 (September 2002)

Case ID No. 31842

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102855053

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum underground storage tanks ("USTs"), as documented during a record review investigation conducted on November 3, 2006. Specifically, after receiving all available information regarding financial assurance, it was determined that the facility did not have financial assurance for its two USTs for the period from March 17, 2006 to July 14, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 238 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,000

Two single events (one per tank) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,580

This violation Final Assessed Penalty (adjusted for limits) \$1,580

Economic Benefit Worksheet

Respondent: Imran Khan dba Stop N Drive

Case ID No. 31842

Reg. Ent. Reference No. RN102855053

Media: Petroleum Storage Tank

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
No commas or \$							

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				0.0	\$0	n/a	\$0
Other (as needed)	\$1,300	17-Mar-2006	14-Jul-2006	0.3	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to provide financial assurance for two USTs (\$650 per tank). The date required is the date the Respondent purchased the facility and the final date is when the Respondent achieved 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

\$1,300

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN603114364 KHAN, IMRAN Classification: Rating: 2.00
 Regulated Entity: RN102855053 STOP N DRIVE Classification: Site Rating: 2.00

ID Number(s): PETROLEUM STORAGE TANK STAGE II REGISTRATI 40555
 PETROLEUM STORAGE TANK REGISTRATI 40555
 REGISTRATION

Location: 1708 HIGHWAY 146 N, LA PORTE, TX, Rating Date: 9/1/2006 Repeat Violator: NO
 77571

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 21, 2006

Agency Decision Requiring Compliance Enforcement

Compliance Period: November 21, 2001 to November 21, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Clinton Sims Phone: 512-239-6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?
2. Has there been a (known) change in ownership of the site during the compliance period?
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)?
Shaikh
N/A
FEROZA BEGUM ENTERPRISES, INC.
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.)

1 08/31/2004 (291260)

N/A

2 06/10/2004 (273649)

3 06/25/2004 (276833)

4 11/16/2006 (518459)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/10/2004 (273649)

Self Report? NO

Classification

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for

Self Report? NO

Classification

Citation: 30 TAC Chapter 115, SubChapter C.115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Self Report? NO

Classification

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).
Self Report? NO Classification
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
Description: Failure to maintain a copy of the California Air Resources

Executive Order(s) for the Stage II Vapor Recovery system and any related components installed at the facility.
Self Report? NO Classification
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)
Description: Failure to maintain hose in a manner that the hose is not crimped, kinked, or flattened such that the vapor passage is blocked, or the back-pressure through the vapor system exceeds the value as certified in the approved system's CARB
Date: 06/25/2004 (276833)
Self Report? NO Classification
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(G)
Description: Failure to maintain all components of the Stage II Vapor Recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the

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

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING IMRAN KHAN
DBA STOP N DRIVE
RN102855053

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-2179-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Imran Khan dba Stop N Drive ("Mr. Khan") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Khan, appear before the Commission and together stipulate that:

1. Mr. Khan owns and operates a convenience store with retail sales of gasoline located at 1708 Highway 146 North, La Porte, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Khan agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Khan is subject to the Commission's jurisdiction.
4. Mr. Khan received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Khan of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of one thousand five hundred eighty dollars (\$1,580.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Khan has paid two hundred eighty dollars (\$280.00) of the administrative penalty. The remaining amount of one thousand three hundred dollars

(\$1,300.00) of the administrative penalty shall be payable in thirteen monthly payments of one hundred dollars (\$100.00) 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 Mr. Khan fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Mr. Khan to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Khan to timely and satisfactorily comply with all of 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 Mr. Khan 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 Mr. Khan achieved compliance on July 14, 2006, by obtaining financial assurance for the Facility.
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 Mr. Khan 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

Mr. Khan is alleged to have violated 30 TEX. ADMIN CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum underground storage tanks ("USTs"), as documented during a record review conducted on November 3, 2006. Specifically, after receiving all available information regarding financial assurance, it was determined that the Facility did not have financial assurance for its two USTs for the period from March 17, 2006 to July 14, 2006.

III. DENIALS

Mr. Khan generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Khan pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Khan'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Imran Khan dba Stop N Drive, Docket No. 2006-2179-PST-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 Mr. Khan. Mr. Khan 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. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Khan 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Khan, or three days after the date on which the Commission mails notice of the Order to Mr. Khan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Imran Khan dba Stop N Drive
DOCKET NO. 2006-2179-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

S. Bergeron Penick

7/17/07

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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

Imran Khan

Date

April 3rd, 2007

IMRAN KHAN

Name (Printed or typed)

Title

owner

Authorized representative of
Imran Khan dba Stop N Drive