

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0198-DCL-E TCEQ ID: RN104992896 CASE NO.: 30272
RESPONDENT NAME: ELVI LORENA HILTON DBA MOCKINGBIRD 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 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

SITE WHERE VIOLATIONS OCCURRED: 5555 East Mockingbird Lane, Dallas, Dallas County

TYPE OF OPERATION: Dry cleaner drop station

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. Respondent owes \$1,196.86 in past-due administrative penalties for TCEQ Docket no. 2006-0998-DCL-E.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired August 24, 2009. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
- TCEQ Enforcement Coordinator:** Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563
- TCEQ Regional Contact:** Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
- Respondent:** Ms. Elvi Lorena Hilton, Owner, Mockingbird Cleaners, 914 W. Grauwylar Road, Irving, Texas 75061-4521
 Ms. Elvi Lorena Hilton, Owner, Mockingbird Cleaners, 5555 E. Mockingbird Lane, Ste. 100, Dallas, Tx 75206
- 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:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" 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: October 11, 2007</p> <p>Date of NOE Relating to this Case: December 4, 2007</p> <p>Background Facts: The EDPRP was filed on November 4, 2008, and re-filed for service on March 3, 2009. The EDPRP was mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service's Internet "Track & Confirm" service indicates the EDPRP was delivered on March 6, 2009. Neither the wrapper sent by certified mail nor the first class mail have been returned. The EDFARP was filed on May 12, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned. The Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference. On or about May 4, 2009, Respondent filed a petition for bankruptcy relief pursuant to Chapter 13 of the United States Code.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>DCL: Failed to register the Facility with the TCEQ by completing and submitting the required registration form to TCEQ for a dry cleaning drop station facility [30 TEX. ADMIN. CODE § 337.10(a), TEX. HEALTH & SAFETY CODE § 374.102(a), and Default Order Docket Number 2006-0998-DCL-E, Ordering Provision 2.a].</p>	<p>Total Assessed: \$1,825</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$1,825</p> <p>The Respondent has not actually paid any of the assessed penalty, but may be required to do so upon judicial determination specifically holding that the debt is non-dischargeable under Federal bankruptcy laws (11 USC § 523(a)(7)), or until the bankruptcy case has been dismissed.</p> <p>Site Compliance History Classification N/A</p> <p>Person Compliance History Classification N/A</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 shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 15 days, complete and submit the required drycleaner and/or drop station registration form. 2. Within 30 days, submit written certification of compliance with the above Ordering Provision.



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	10-Dec-2007	Screening	30-Jan-2008	EPA Due	
	PCW	11-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Elvi Lorena Hilton dba Mockingbird Cleaners
Reg. Ent. Ref. No.	RN104992896
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	30272	No. of Violations	1	
Docket No.	2008-0198-DCL-E	Order Type	Findings	
Media Program(s)	Dry Cleaner	Enf. Coordinator	John Shelton	
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	\$1,460
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	25% Enhancement	Subtotals 2, 3, & 7	\$365

Notes: Enhancement for one default order at this site within the past five years.

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 x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$18	Subtotal 6	\$0
Approx. Cost of Compliance	\$250	*Capped at the Total EB \$ Amount	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,825
-----------------------------	-----------------------	---------

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	\$1,825
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,825
-----------------------------------	-------------------------------	---------

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

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

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$1,825
------------------------	---------

Screening Date 30-Jan-2008

Docket No. 2008-0198-DCL-E

PCW

Respondent Elvi Lorena Hilton dba Mockingbird Cleaners

Policy Revision 2 (September 2002)

Case ID No. 30272

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104992896

Media [Statute] Dry Cleaner

Enf. Coordinator John Shelton

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	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	1	25%
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 judgments 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%
<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) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one default order at this site within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 30-Jan-2008

Docket No. 2008-0198-DCL-E

PCW

Respondent Elvi Lorena Hilton dba Mockingbird Cleaners

Policy Revision 2 (September 2002)

Case ID No. 30272

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN104992896

Media [Statute] Dry Cleaner

Enf. Coordinator John Shelton

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 337.10(a), Tex. Health and Safety Code § 374.102(a) and Default Order, Docket No. 2006-0998-DCL-E, Ordering Provision 2.a

Violation Description Respondent failed to register the drop station, as documented during an investigation on October 11, 2007.

Base Penalty \$50

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$45

\$5

Violation Events

Number of Violation Events 292

292 Number of violation days

mark only one with an x	daily	x
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,460

Two hundred ninety-two daily events are recommended from the April 13, 2007 effective date of the Default Order to the January 30, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$1,825

This violation Final Assessed Penalty (adjusted for limits) \$1,825

Economic Benefit Worksheet

Respondent: Elvi Lorena Hilton dba Mockingbird Cleaners
Case ID No.: 30272
Reg. Ent. Reference No.: RN104992896
Media: Dry Cleaner
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	\$250	13-Apr-2007	26-Sep-2008	1.5	\$18	n/a	\$18
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 effective date of the Default Order and the Final Date is the estimated date of 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

\$18

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ELVI LORENA HILTON DBA
MOCKINGBIRD CLEANERS,
RN104992896**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2008-0198-DCL-E**

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s First Amended Report and Petition filed pursuant to TEX. WATER CODE ch. 7, 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 Elvi Lorena Hilton dba Mockingbird Cleaners (“Respondent”).

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

FINDINGS OF FACT

1. Respondent owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaner drop station located at 5555 East Mockingbird Lane, Dallas, Dallas County, Texas (the “Facility”).
2. The Facility is a retail commercial establishment the primary business of which is to act as a collection point for the drop-off and pick-up of garments or other fabrics that are sent to a dry cleaning facility for processing. As such, the Facility is a dry cleaning drop station as defined in TEX. HEALTH & SAFETY CODE § 374.001(6).
3. During an investigation on October 11, 2007, a TCEQ investigator documented that Respondent failed to register the Facility with the TCEQ by completing and submitting the required registration form to TCEQ for a dry cleaning drop station facility.
4. Respondent received notice of the violation on or about December 9, 2007.
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 and Requiring Certain Actions of Elvi Lorena Hilton dba Mockingbird Cleaners” (the “EDPRP”) in the TCEQ Chief Clerk’s office on March 3, 2009.

6. By letter dated March 3, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The certified mail receipt has not been returned to the TCEQ. However, the United States Postal Service’s Internet “Track & Confirm” service indicates the EDPRP was delivered on March 6, 2009. The United States Postal Service did not return the wrapper sent by certified mail. The first class mail has not been returned.
7. The Executive Director filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Elvi Lorena Hilton dba Mockingbird Cleaners” (the “EDFARP”) in the TCEQ Chief Clerk’s office on May 12, 2009.
8. By letter dated May 12, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating that Respondent received notice of the EDFARP.
9. More than 20 days have elapsed since Respondent received notice of the EDFARP, provided by the Executive Director. Respondent failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
10. On or about May 4, 2009, Respondent filed a petition for bankruptcy relief pursuant to Chapter 13 of the United States Code.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondent 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, Respondent failed to register the Facility with the TCEQ by completing and submitting the required registration form to TCEQ for a dry cleaning drop station facility, in violation of 30 TEX. ADMIN. CODE § 337.10(a), TEX. HEALTH

& SAFETY CODE § 374.102(a), and Default Order Docket Number 2006-0998-DCL-E, Ordering Provision 2.a.

3. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 9, Respondent failed to file a timely answer to the EDFARP 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 Respondent and assess the penalty recommended by the Executive Director.
5. As evidenced by Finding of Fact No. 10, Respondent filed a petition for bankruptcy relief pursuant to Chapter 13 of the United States Code. The Automatic Stay imposed by the Bankruptcy Code (specifically, 11 U.S.C. § 362(a)) does not apply to the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power, by virtue of the exception set out at 11 U.S.C. § 362(b)(4). Accordingly, TCEQ (a governmental unit as defined under 11 U.S.C. § 101(27)) is expressly excepted from the automatic stay in pursuing enforcement of the State's environmental protection laws, and in seeking to liquidate its damages for such violations. So long as the Respondent's bankruptcy proceedings are pending and/or until relief from the automatic stay is granted, the TCEQ will, however, not seek to execute upon any monetary judgment obtained without first approaching the United States Bankruptcy Court where the Respondent's bankruptcy case is pending as necessary, after consultation with the Office of the Attorney General.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and 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.
7. An administrative penalty in the amount of one thousand eight hundred twenty-five dollars (\$1,825.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE §§ 7.053 and 7.0525(c).
8. 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. Respondent is assessed an administrative penalty in the amount of one thousand eight hundred twenty-five dollars (\$1,825.00) for violations of state statutes and TCEQ rules. The assessment of this administrative penalty and Respondent's 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 assessed by this Order may be made out to the "Texas Commission on Environmental Quality" and sent with the notation "Re: Elvi Lorena Hilton dba Mockingbird Cleaners; Docket No. 2008-0198-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. Respondent shall undertake the following technical requirements:
 - a. Within 15 days after the effective date of this Order, Respondent shall complete and submit the required drycleaner and/or drop station registration form for the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 337 to:

Dry Cleaning Registration Team
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Order, Respondent shall submit written certification of compliance with Ordering Provision 2.a. as described below. The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately

responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent 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 Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent 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 Respondent if the Executive Director determines that Respondent 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF GARY K. SHIU

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

“My name is Gary K. Shiu. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 and Requiring Certain Actions of Elvi Lorena Hilton dba Mockingbird Cleaners” (the “EDPRP”) with the Office of the Chief Clerk on March 3, 2009.

I sent the EDPRP to Respondent at her last known address on March 3, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The certified mail receipt has not been returned to the TCEQ. However, the United States Postal Service’s Internet “Track & Confirm” service indicates the EDPRP was delivered on March 6, 2009. The United States Postal Service did not return the wrapper sent by certified mail. The first class mail has not been returned.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Elvi Lorena Hilton dba Mockingbird Cleaners” (the “EDFARP”) with the Office of the Chief Clerk on May 12, 2009.

I sent the EDFARP to Respondent at her last known address on May 12, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



Gary K. Shiu
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Gary K. Shiu, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11th day of AUGUST, A.D., 2009.

Notary Stamp



Notary Signature

