

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1875-PST-E TCEQ ID: RN102532801 CASE NO.: 36883
RESPONDENT NAME: ALMEDA, INC. DBA DOWNTOWN TIGER MART

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 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

SITE WHERE VIOLATION(S) OCCURRED: 2111 Fannin Street, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

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 September 7, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Ms. Brianna Carlson, Waste Enforcement Section, MC R-15, (956) 430-6021
TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623
Respondent: Mr. Sadruddin N. Mohd, President, Almeda, Inc., 2111 Fannin Street, Houston, Texas 77002
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 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: November 4, 2008</p> <p>Date of NOE Relating to this Case: November 19, 2008</p> <p>Background Facts: The EDPRP was filed April 10, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on April 15, 2009, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent no longer owns or operates the Facility as of June 1, 2009.</p> <p>PST: Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$6,296</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: \$6,296</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent successfully conducted the required annual and triennial testing of the Stage II equipment on November 4, 2008, at the Station in response to this enforcement action.</p> <p>Ordering Provisions:</p> <ol style="list-style-type: none"> 1. The Respondent's UST delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after the Respondent complies with all of the requirements of this Order. 2. Within 10 days, the Respondent shall surrender his delivery certificate to the TCEQ.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	24-Nov-2008	Screening	2-Dec-2008	EPA Due	
	PCW	11-Mar-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	ALMEDA, INC. dba Downtown Tiger Mart		
Reg. Ent. Ref. No.	RN102532801		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36883	No. of Violations	1
Docket No.	2008-1875-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$100
Notes	Enhancement for one NOV with dissimilar violations.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,196	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$1,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$5,100
OTHER FACTORS AS JUSTICE MAY REQUIRE	23.5%	Adjustment	\$1,196
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation.		
		Final Penalty Amount	\$6,296
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$6,296
DEFERRAL	0.0% Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			\$6,296

Screening Date 2-Dec-2008

Docket No. 2008-1875-PST-E

PCW

Respondent ALMEDA, INC. dba Downtown Tiger Mart

Policy Revision 2 (September 2002)

Case ID No. 36883

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102532801

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

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	1	2%
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 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 2-Dec-2008	Docket No. 2008-1875-PST-E	PCW
Respondent ALMEDA, INC. dba Downtown Tiger Mart	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36883	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN102532801		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Brianna Carlson		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §115.245(2) and Tex. Health & Safety Code § 382.085(b)"/>	
Violation Description	<input type="text" value="Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted."/>	
Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text" value="X"/>	<input type="text"/>
	Percent	<input type="text" value="50%"/>
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environment receptors as a result of the violation."/>	
Adjustment	<input type="text" value="\$5,000"/>	
<input type="text" value="\$5,000"/>		
Violation Events		
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="1095"/> Number of violation days
mark only one with an x	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="X"/>
	Violation Base Penalty	<input type="text" value="\$5,000"/>
<input type="text" value="One single event is recommended for the three-year period preceding the November 4, 2008 investigation."/>		
Good Faith Efforts to Comply		
	0.0% Reduction	<input type="text" value="\$0"/>
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="X"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
Violation Subtotal	<input type="text" value="\$5,000"/>	
Economic Benefit (EB) for this violation		
Estimated EB Amount	<input type="text" value="\$1,196"/>	Statutory Limit Test
		<input type="text" value="\$6,296"/>
This violation Final Assessed Penalty (adjusted for limits)		
<input type="text" value="\$6,296"/>		

Economic Benefit Worksheet

Respondent: ALMEDA, INC. dba Downtown Tiger Mart

Case ID No. 36883

Reg. Ent. Reference No. RN102532801

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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	4-Nov-2005	4-Nov-2008	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct testing of the Stage II equipment. The Date Required is three years prior to the investigation date. The Final Date is the compliance date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Compliance History Report

Customer/Respondent/Owner-Operator: CN603421884 ALMEDA, INC. Classification: AVERAGE Rating: 3.67
Regulated Entity: RN102532801 Downtown Tiger Mart Classification: AVERAGE Site Rating: 3.67

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 70523
REGISTRATION
Location: 2111 FANNIN ST, HOUSTON, TX, 77002 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 25, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 24, 2003 to November 24, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brianna Carlson Phone: 956/430-6021

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? Yes
3. If Yes, who is the current owner? ALMEDA, INC.
4. If Yes, who was/were the prior owner(s)? Eastern Trust, Ltd
Almeda, Inc.
5. When did the change(s) in ownership occur? 03/16/2005
11/06/2008

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 10/25/2005 (431968)
 - 2 09/14/2006 (512521)
 - 3 11/18/2008 (707493)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/25/2005 (431968)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)
Description: 30 TAC §115.246 (6) - Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: 30 TAC §115.246 (5) - Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
Description: 30 TAC §115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: 30 TAC §115.246(1) - Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II Vapor Recovery system and any related components installed at the facility.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

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 effectiveness of the system.

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



<p>IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING ALMEDA, INC. DBA DOWNTOWN TIGER MART; RN102532801</p>	<p>§ § § § § §</p>	<p>BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY</p>
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**DEFAULT ORDER
DOCKET NO. 2008-1875-PST-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, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and revocation of the respondent’s fuel delivery certificate. The respondent made the subject of this Order is Almeda, Inc. dba Downtown Tiger Mart (“Almeda”).

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

FINDINGS OF FACT

1. Almeda owns and operates a convenience store with retail sales of gasoline located at 2111 Fannin Street, Houston, Harris County, Texas (the “Station”).
2. Almeda’s three underground storage tanks (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Almeda’s USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection on November 4, 2008, a University of Texas at Arlington investigator documented that Almeda failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.
4. Almeda received notice of the violation on or about November 24, 2008.

5. The Executive Director recognizes that Almeda successfully conducted the required annual and triennial testing of the Stage II equipment on November 4, 2008, at the Station in response to this enforcement action.
6. 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 Almeda, Inc. dba Downtown Tiger Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on April 10, 2009.
7. By letter dated April 10, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Almeda with notice of the EDPRP. According to the return receipt "green card", Almeda received notice of the EDPRP on April 15, 2009, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Almeda received notice of the EDPRP, provided by the Executive Director. Almeda failed to file an answer, 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, Almeda is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3., Almeda failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Almeda 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. 8, Almeda failed to file a timely answer 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 Almeda and assess the penalty recommended by the Executive Director.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Almeda 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.
6. An administrative penalty in the amount of six thousand two hundred ninety-six dollars (\$6,296.00) 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Almeda's UST fuel delivery certificate if the Commission finds that good cause exists.
9. Good cause for revocation of Almeda's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2, 3, 5 through 8, and Conclusions of Law Nos. 2 through 4.

ORDERING PROVISIONS

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

1. Almeda is assessed an administrative penalty in the amount of six thousand two hundred ninety-six dollars (\$6,296.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Almeda'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 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: Almeda, Inc. dba Downtown Tiger Mart; Docket No. 2008-1875-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. Almeda's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Almeda may submit an application for a new delivery certificate only after Almeda has complied with all of the requirements of this Order.

3. Within 10 days after the effective date of this Order, Almeda shall send its UST fuel delivery certificate to:

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

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Almeda. Almeda is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.

6. If Almeda 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, Almeda's failure to comply is not a violation of this Order. Almeda shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Almeda shall notify the Executive Director within seven days after Almeda becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

7. 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 Almeda shall be made in writing to the Executive Director. Extensions are not effective until Almeda receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. 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 Almeda if the Executive Director determines that Almeda has not complied with one or more of the terms or conditions in this Order.

9. 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.

10. 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.

Almeda, Inc. dba Downtown Tiger Mart
Docket No. 2008-1875-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

“My name is Xavier Guerra. 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, 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 Almeda, Inc. dba Downtown Tiger Mart” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 10, 2009.

I sent the EDPRP to Almeda at its last known address on April 10, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Almeda received notice of the EDPRP on April 15, 2009, as evidenced by the signature on the card.

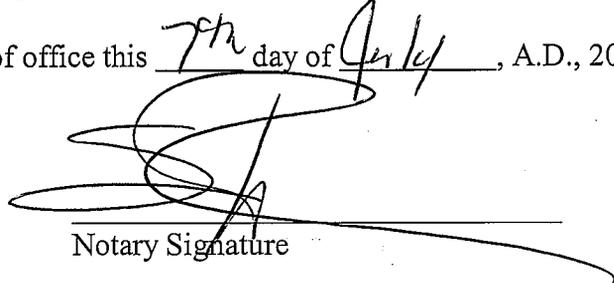
More than 20 days have elapsed since Almeda received notice of the EDPRP. Almeda failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference”.


Xavier Guerra
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, 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 7th day of July, A.D., 2009.

Notary  **STACY TANNER**
Notary Public, State of Texas
My Commission Expires
NOVEMBER 16, 2009
Notary without Bond


Notary Signature