

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1130-DCL-E TCEQ ID: RN104096680 CASE NO.: 30696
RESPONDENT NAME: HONG NGUYEN DBA LEE DRY CLEANERS III

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
<p>SITE WHERE VIOLATIONS OCCURRED: 12803 Homestead Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Dry cleaning drop station</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. The Respondent owes \$2,552.18 in past-due administrative penalties (2006-1159-DCL-E).</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939 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: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623 Respondent: Ms. Hong Nguyen, Lee Dry Cleaners III, 12511 Jones Road, Houston, Texas 77070 Respondent's Attorney: Not represented by counsel on this enforcement matter.</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 checked="" type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Dates of Investigation Relating to this Case: May 21, 2008 and July 9, 2008</p> <p>Date of NOE Relating to this Case: June 13, 2008</p> <p>Background Facts: The EDPRP was filed on October 2, 2008, 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 October 4, 2008, as evidenced by the signature on the card. The EDFARP was filed on October 20, 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 EDFARP on October 22, 2009, as evidenced by the signature on the card.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>The Respondent owes \$3,830.48 in past-due fees and \$2,552.18 in past-due administrative penalties.</p> <p>DCL:</p> <ol style="list-style-type: none"> Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning drop station [30 TEX. ADMIN. CODE § 337.11(e); TEX. HEALTH & SAFETY CODE § 374.102; and TCEQ Default Order Docket No. 2006-1159-DCL-E, Ordering Provision 2.a.]. Failed to pay outstanding dry cleaner fees and associated late fees, and failed to pay an administrative penalty [30 TEX. ADMIN. CODE § 337.14(c); TEX. WATER CODE § 5.702; and TCEQ Default Order Docket No. 2006-1159-DCL-E, Ordering Provision 1]. 	<p>Total Assessed: \$2,088</p> <p>Total Deferred: \$0 <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: \$2,088</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 proposed 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's dry cleaner registration certificate is revoked immediately. Respondent may submit an application for a new dry cleaner registration certificate only after complying with all the requirements of this Order.</p> <p>The Respondent shall implement the following corrective measures:</p> <ol style="list-style-type: none"> Within 10 days, send her dry cleaner registration certificate to the TCEQ. Within 30 days, submit payment for outstanding fees and administrative penalties, including associated interest and penalties. Within 45 days, submit written certification to demonstrate compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 17, 2008

TCEQ

DATES	Assigned	17-Jun-2008			
	PCW	10-Jul-2008	Screening	9-Jul-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Hong Nguyen dba Lee Dry Cleaners III				
Reg. Ent. Ref. No.	RN104096680				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	30696	No. of Violations	2		
Docket No.	2008-1130-DCL-E	Order Type	Findings		
Media Program(s)	Dry Cleaner	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	John Shelton		
		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	\$1,670
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$418
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Notes: The Respondent was issued a Default Order Docket No. 2006-1159-DCL-E with an effective date of August 10, 2007.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$20
 Approx. Cost of Compliance: \$250
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,088
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,088
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,088
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,088
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Screening Date 9-Jul-2008

Docket No. 2008-1130-DCL-E

PCW

Respondent Hong Nguyen dba Lee Dry Cleaners III

Policy Revision 2 (September 2002)

Case ID No. 30696

PCW Revision June 17, 2008

Reg. Ent. Reference No. RN104096680

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 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%
<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)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued a Default Order Docket No. 2006-1159-DCL-E with an effective date of August 10, 2007.

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

Screening Date 9-Jul-2008 **Docket No.** 2008-1130-DCL-E **PCW**
Respondent Hong Nguyen dba Lee Dry Cleaners III *Policy Revision 2 (September 2002)*
Case ID No. 30696 *PCW Revision June 17, 2008*
Reg. Ent. Reference No. RN104096680
Media [Statute] Dry Cleaner
Enf. Coordinator John Shelton

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 337.11(e), Tex. Health & Safety Code § 374.102, and TCEQ Default Order Docket No. 2006-1159-DCL-E, Ordering Provision 2.a

Violation Description Failed to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility, as documented during an investigation conducted on May 21, 2008. Specifically, the previous registration expired December 31, 2004 and was not renewed at the time of the investigation.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Three Hundred Thirty-Four daily events are recommended from the August 10, 2007 effective date of the Default Order to the July 9, 2008 screening date.

Good Faith Efforts to Comply Reduction

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Hong Nguyen dba Lee Dry Cleaners III
Case ID No. 30696
Reg. Ent. Reference No. RN104096680
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				0.00	\$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	\$250	25-Aug-2007	29-Mar-2009	1.59	\$20	n/a	\$20
Other (as needed)				0.00	\$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 estimated date of compliance.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$20

Screening Date 9-Jul-2008 **Docket No.** 2008-1130-DCL-E **PCW**
Respondent Hong Nguyen dba Lee Dry Cleaners III *Policy Revision 2 (September 2002)*
Case ID No. 30696 *PCW Revision June 17, 2008*
Reg. Ent. Reference No. RN104096680
Media [Statute] Dry Cleaner
Enf. Coordinator John Shelton

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 337.14(c) and Tex. Water Code § 5.702 and TCEQ Default Order Docket No. 2006-1159-DCL-E, Ordering Provision 1
Violation Description Failed to pay outstanding Dry Cleaner fees and associated late fees for TCEQ Financial Account No. 24002069 and failure to pay the administrative penalty for TCEQ Default Order Docket No. 2006-1159-DCL-E, Account No. 23800529, as documented during an investigation conducted on July 9, 2008.

Base Penalty \$0

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes N/A

Adjustment \$0

Violation Events

Number of Violation Events Number of violation days
mark only one with an x
 daily
 monthly
 quarterly
 semiannual
 annual
 single event

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes N/A

Violation Subtotal \$0

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Hong Nguyen dba Lee Dry Cleaners III

Case ID No. 30696

Reg. Ent. Reference No. RN104096680

Media Dry Cleaner

Violation No. 2

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

N/A

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN603054404 HONG NGUYEN	Classification:	Rating: 31.50
		AVERAGE	
Regulated Entity:	RN104096680 LEE DRY CLEANERS III	Classification:	Site Rating: 3.01
		AVERAGE BY DEFAULT	
ID Number(s):	DRY CLEANERS REGISTRATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION	INTERNAL EPA ID	104096680 TXR000071217
Location:	12803 HOMESTEAD RD, HOUSTON, TX, 77039	Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	July 09, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 09, 2003 to July 09, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>John Shelton</u>	Phone:	<u>(512) 239-2563</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Lee Dry Clean, Inc.
Hong Nguyen
4. If Yes, who was/were the prior owner(s)? Lee Dry Cleaner III
5. When did the change(s) in ownership occur? 09/01/2004

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/10/2007 ADMINORDER 2006-1159-DCL-E

Classification: Major

Citation: 30 TAC Chapter 337, SubChapter B 337.10(a)
 TEXAS HEALTH AND SAFETY CODE 374.102(a)

Description: Facility does not possess a valid, current dry cleaning drop station registration.
 - 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 08/02/2006 (485883)

2 06/13/2008 (680564)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
HONG NGUYEN DBA LEE DRY
CLEANERS III,
RN104096680

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2008-1130-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 chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 374, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's dry cleaner registration certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Hong Nguyen dba Lee Dry Cleaners III ("Nguyen").

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

FINDINGS OF FACT

1. Nguyen owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning drop station, located at 12803 Homestead Road, Houston, Harris 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 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 inspection on May 21, 2008, a TCEQ Houston Regional Office investigator documented that Nguyen failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning drop station facility. Specifically, the previous registration expired December 31, 2004.

4. During an investigation conducted on July 9, 2008, a TCEQ Austin Office enforcement coordinator documented that Nguyen failed to pay outstanding dry cleaner fees and associated late fees for TCEQ Financial Account No. 24002069 and failed to pay the administrative penalty for TCEQ Default Order Docket No. 2006-1159-DCL-E, Account No. 23800529.
5. Nguyen received notice of the violation in Finding of Fact No. 3 on or about June 18, 2008.
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 and Requiring Certain Actions of Hong Nguyen dba Lee Dry Cleaners III” (the “EDPRP”) in the TCEQ Chief Clerk’s office on October 2, 2008.
7. By letter dated October 2, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Nguyen with notice of the EDPRP. According to the return receipt “green card,” Nguyen received notice of the EDPRP on October 4, 2008, as evidenced by the signature on the card.
8. 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 Hong Nguyen dba Lee Dry Cleaners III” (the “EDFARP”) in the TCEQ Chief Clerk’s office on October 20, 2009.
9. By letter dated October 20, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Nguyen with notice of the EDFARP. According to the return receipt “green card,” Nguyen received notice of the EDFARP on October 22, 2009, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Nguyen received notice of the EDPRP and the EDFARP, provided by the Executive Director. Nguyen failed to file an answer to either the EDPRP or the EDFARP, 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, Nguyen is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 374, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Nguyen failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning drop station facility, in violation of 30 TEX. ADMIN. CODE § 337.11(e); TEX. HEALTH & SAFETY CODE § 374.102; and TCEQ Default Order Docket No. 2006-1159-DCL-E, Ordering Provision 2.a.
3. As evidenced by Finding of Fact No. 4, Nguyen failed to pay outstanding dry cleaner fees and associated late fees for TCEQ Financial Account No. 24002069 and failed to pay the administrative penalty for TCEQ Default Order, Docket No. 2006-1159-DCL-E, Account No. 23800529, in violation of 30 TEX. ADMIN. CODE § 337.14(c); TEX. WATER CODE § 5.702; and TCEQ Default Order, Docket No. 2006-1159-DCL-E, Ordering Provision 1.
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Nguyen with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Nguyen with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 10, Nguyen has failed to file a timely answer to either the EDPRP or 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 Nguyen and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Nguyen 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.
8. An administrative penalty in the amount of two thousand eighty-eight dollars (\$2,088.00) 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).

9. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 337.11(f)(1)(C), the Commission has authority to revoke Nguyen's dry cleaner registration certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Nguyen's dry cleaner registration certificate exists as justified by Finding of Fact Nos. 3, 4, 6, 7, 8, 9 and 10, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

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

1. Nguyen is assessed an administrative penalty in the amount of two thousand eighty-eight dollars (\$2,088.00) for violations of TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 374 and rules of the TCEQ. The payment of this administrative penalty and Nguyen'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: Hong Nguyen dba Lee Dry Cleaners III; Docket No. 2008-1130-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. Nguyen's dry cleaner registration certificate is revoked immediately upon the effective date of this Order. Nguyen may submit an application for a new dry cleaner registration certificate only after Nguyen has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Nguyen shall send her dry cleaner registration certificate to:

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

4. Nguyen shall undertake the following corrective measures:
- a. Within 30 days after the effective date of this Order, Nguyen shall submit payment for outstanding dry cleaner fees and administrative penalties for this case and for TCEQ Default Order, Docket No. 2006-1159-DCL-E, including any associated penalties and interest with the notation, "Hong Nguyen dba Lee Dry Cleaners III, Account Nos. 24002069 and 23800529 and TCEQ Docket No. 2008-1130-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

- b. Within 45 days after the effective date of this Order, Nguyen shall submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3. through 4.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under the 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."

Nguyen shall submit all correspondence, reports, and documentation required by these Ordering Provisions 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:

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Street, Suite H
Houston, Texas 77023-1452

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Nguyen. Nguyen is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Nguyen 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, Nguyen's failure to comply is not a violation of this Order. Nguyen shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Nguyen shall notify the Executive Director within seven days after Nguyen becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 Nguyen shall be made in writing to the Executive Director. Extensions are not effective until Nguyen receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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 Nguyen if the Executive Director determines that Nguyen has not complied with one or more of the terms or conditions in this Order.

10. 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.
11. 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 REBECCA M. COMBS

STATE OF TEXAS §

COUNTY OF TRAVIS §

"My name is Rebecca M. Combs. 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 Hong Nguyen dba Lee Dry Cleaners III' (the 'EDPRP') with the Office of the Chief Clerk on October 2, 2008.

I sent the EDPRP to Nguyen at its last known address on October 2, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card" Nguyen received notice of the EDPRP on October 4, 2008, as evidenced by the signature on the card.

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 Hong Nguyen dba Lee Dry Cleaners III' (the 'EDFARP') with the Office of the Chief Clerk on October 20, 2009.

I sent the EDFARP to Nguyen at its last known address on October 20, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card" Nguyen received notice of the EDFARP on October 22, 2009, as evidenced by the signature on of the green card.

More than 20 days have elapsed since Nguyen received notice of the EDPRP and the EDFARP. Nguyen failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference".

Rebecca M. Combs
Rebecca M. Combs
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 8 day of February, 2010.

Margaret Jackson
Notary Signature

