

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2009-1520-MWD-E **TCEQ ID:** RN103124202 **CASE NO.:** 38383**RESPONDENT NAME:** Real Holdings Group, LLC

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Westwood Villa Apartments, located 800 feet south and 1,600 feet west of the northwest corner of the Lee County Fairgrounds, Lee County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 4, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Gregory NMI Blomquist, Registered Agent/CEO, Real Holdings Group, LLC, 5040 Sail Creek Drive, Plano, Texas 75093  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 2, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 28, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to comply with permitted limits for biochemical oxygen demand and total suspended solids [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012368001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> <p>2) Failure to submit the annual sludge report for the monitoring period ending July 31, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0012368001 Sludge Provisions].</p>	<p><b>Total Assessed:</b> \$9,250</p> <p><b>Total Deferred:</b> \$1,850  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$400 (remaining \$7,000 due in 35 monthly payments of \$200 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the period ending July 31, 2008; and</p> <p>b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012368001 and Ordering Provision a, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.</p>

Additional ID No(s): WQ00012368001



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	Assigned	31-Aug-2009	Screening	9-Sep-2009	EPA Due	
	PCW	11-Sep-2009				

## RESPONDENT/FACILITY INFORMATION

Respondent	Real Holdings Group, LLC		
Reg. Ent. Ref. No.	RN103124202		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	38383	No. of Violations	2
Docket No.	2009-1520-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Cheryl Thompson
		EC's Team	Enforcement Team 3
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

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

**Compliance History** 85.0% Enhancement *Subtotals 2, 3, & 7* **\$4,250**

Notes: The Respondent self-reported 16 months of effluent violations and received one NOV for same or similar 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 \$1,147  
Approx. Cost of Compliance \$10,250  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$9,250**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$9,250**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$9,250**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$1,850**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$7,400**

Screening Date 9-Sep-2009

Docket No. 2009-1520-MWD-E

PCW

Respondent Real Holdings Group, LLC

Policy Revision 2 (September 2002)

Case ID No. 38383

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103124202

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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)	17	85%
	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	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) 85%

>> 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 self-reported 16 months of effluent violations and received one NOV for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date: 9-Sep-2009

Docket No.: 2009-1520-MWD-E

PCW

Respondent: Real Holdings Group, LLC

Policy Revision 2 (September 2002)

Case ID No.: 38383

PCW Revision October 30, 2009

Reg. Ent. Reference No.: RN103124202

Media (Statute): Water Quality

Enf. Coordinator: Cheryl Thompson

Violation Number: 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012368001; Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted limits, as documented during a record review conducted on June 2, 2009. See attached table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent: 0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids (TSS) was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 4 Number of violation days: 120

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal: \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1,126

Violation Final Penalty Total: \$7,400

This violation Final Assessed Penalty (adjusted for limits): \$7,400

## Economic Benefit Worksheet

**Respondent:** Real Holdings Group, LLC  
**Case ID No.:** 38383  
**Reg. Ent. Reference No.:** RN103124202  
**Media:** Water Quality  
**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)	\$10,000	30-Apr-2008	31-Jul-2010	2.25	\$1,126	n/a	\$1,126

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected 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

\$10,000

TOTAL

\$1,126

**Screening Date** 9-Sep-2009 **Docket No.** 2009-1520-MWD-E **PCW**  
**Respondent** Real Holdings Group, LLC *Policy Revision 2 (September 2002)*  
**Case ID No.** 38383 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103124202  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Cheryl Thompson  
**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0012368001, Sludge Provisions  
**Violation Description** Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, as documented in a record conducted on June 2, 2009.

**Base Penalty** \$10,000

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

OR	<b>Harm</b>			<b>Percent</b> <input type="text" value="0%"/>	
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	<b>Actual</b>	<input type="text"/>	<input type="text"/>		<input type="text"/>
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b> <input type="text" value="10%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

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

**Adjustment** \$9,000

**\$1,000**

**Violation Events**

**Number of Violation Events**  **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 checked="" type="text" value="x"/>

**Violation Base Penalty** \$1,000

One single event is recommended.

**Good Faith Efforts to Comply** **0.0% Reduction** \$0

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

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

**Violation Subtotal** \$1,000

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

**Estimated EB Amount** \$21 **Violation Final Penalty Total** \$1,850

**This violation Final Assessed Penalty (adjusted for limits)** \$1,850

# Economic Benefit Worksheet

**Respondent** Real Holdings Group, LLC  
**Case ID No.** 38383  
**Reg. Ent. Reference No.** RN103124202  
**Media** Water Quality  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$250	1-Sep-2008	30-Apr-2010	1.66	\$21	N/A	\$21

Notes for DELAYED costs

Estimated cost to submit missing report. Date required is the date the sludge report was due and the final date is the projected date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$21





# Compliance History Report Pending

Customer/Respondent/Owner-Operator:	CN603165689	Real Holdings Group, LLC	Classification: AVERAGE	Rating: 0.95
Regulated Entity:	RN103124202	WESTWOOD VILLA APARTMENTS	Classification: AVERAGE	Site Rating: 0.95
ID Number(s):	WASTEWATER	PERMIT		TPDES0086550
	WASTEWATER	PERMIT		WQ0012368001
	WASTEWATER LICENSING	LICENSE		WQ0012368001
Location:	located 800 feet south and 1,800 feet west of the northwest corner of the Lee County Fairgrounds, in Lee County			
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	September 09, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 09, 2004 to September 09, 2009			

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

Name: Cheryl Thompson Phone: (817) 568-5866

### 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWN Real Holdings Group, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR STEENWYK, TIMOTHY CRAIG
5. When did the change(s) in owner or operator occur? 09/08/2006
6. Rating Date: 9/1/2009 Repeat Violator: NO

### 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	09/16/2004	(361178)
2	10/15/2004	(387019)
3	11/17/2004	(387020)
4	12/15/2004	(387021)
5	01/20/2005	(387022)
6	02/16/2005	(387016)
7	03/16/2005	(387017)
8	05/03/2005	(387018)
9	05/13/2005	(424808)
10	06/06/2005	(338946)
11	06/15/2005	(424809)
12	07/19/2005	(445462)
13	08/26/2005	(445463)
14	09/16/2005	(445464)
15	10/21/2005	(476976)
16	11/16/2005	(476977)
17	12/19/2005	(476978)
18	01/13/2006	(476979)
19	02/15/2006	(476974)
20	03/21/2006	(476975)
21	04/14/2006	(503760)
22	05/10/2006	(503761)
23	06/15/2006	(503762)
24	07/12/2006	(526115)
25	08/24/2006	(526116)
26	09/14/2006	(526117)

27 11/08/2006 (586658)  
 28 11/30/2006 (586659)  
 29 12/20/2006 (586660)  
 30 01/29/2007 (586661)  
 31 04/20/2007 (586654)  
 32 04/20/2007 (586655)  
 33 05/22/2007 (586656)  
 34 07/13/2007 (586657)  
 35 07/13/2007 (624575)  
 36 07/23/2007 (624576)  
 37 10/02/2007 (624577)  
 38 11/12/2007 (624578)  
 39 08/11/2008 (715062)  
 40 09/10/2008 (715063)  
 41 09/30/2008 (715060)  
 42 10/10/2008 (715065)  
 43 10/15/2008 (715059)  
 44 10/28/2008 (715058)  
 45 11/06/2008 (715056)  
 46 11/06/2008 (715057)  
 47 11/06/2008 (715061)  
 48 11/06/2008 (715069)  
 49 11/10/2008 (715064)  
 50 11/10/2008 (715066)  
 51 11/10/2008 (715067)  
 52 11/10/2008 (715068)  
 53 01/12/2009 (730899)  
 54 01/13/2009 (730900)  
 55 02/13/2009 (754140)  
 56 03/10/2009 (754141)  
 57 04/27/2009 (754142)  
 58 05/13/2009 (771468)  
 59 05/21/2009 (744026)  
 60 06/28/2009 (747752)

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

Date: 04/30/2005

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (503760)

Self Report? YES C Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (586658)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2006 (586659)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2006 (586660)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (586661)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)

Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	01/31/2007 (586654)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	02/28/2007 (586655)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	12/31/2007 (715089)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	01/31/2008 (715056)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	04/30/2008 (715059)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	07/31/2008 (715062)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	12/31/2008 (730900)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	02/28/2009 (754141)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	04/30/2009 (771468)		
Self Report?	YES		
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter	Classification:	Moderate
Date:	05/22/2009 (744026)		
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to test sludge annually according to permit requirements	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to accurately measure the effluent flow	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet effluent limits	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 319, SubChapter A 319.7(a)		
Description:	Failure to adequately document sampling records for DO and chlorine	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to submit noncompliance notification for effluent violations that exceeded permitted effluent limits by more than 40%		

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  
REAL HOLDINGS GROUP, LLC  
RN103124202**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1520-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Real Holdings Group, LLC ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located 800 feet south and 1,600 feet west of the northwest corner of the Lee County Fairgrounds in Lee County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 2, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Two Hundred Fifty Dollars (\$9,250) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Four Hundred Dollars (\$400) of the administrative penalty and One Thousand Eight Hundred Fifty Dollars (\$1,850) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Dollars (\$7,000) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Dollars (\$200) 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 the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012368001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on June 2, 2009 and as depicted in the table below:

	5- Day Biochemical Oxygen Demand (BOD) Daily Average	BOD Daily Average	Total Suspended Solids (TSS) Daily Average	TSS Daily Average	TSS Single Grab
<i>Month/Year</i>	1.7 lbs/day	10 mg/L	2.5 lbs/day	15 mg/L	60 mg/L
Apr-08	2	13	4.3	28.25	c
Jul-08	c	c	c	16.4	c
Dec-08	1.76	10.6	c	26.6	c
Feb-09	c	10.5	4.46	26.75	69

mg/L = milligrams per liter      lbs/day = pounds per day      c = compliant (no excursions)

2. Failed to submit the annual sludge report for the monitoring period ending July 31, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0012368001 Sludge Provisions, as documented during a record review conducted on June 2, 2009.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Real Holdings Group, LLC, Docket No. 2009-1520-MWD-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, submit the annual sludge report for the period ending July 31, 2008, in accordance with the requirements of TPDES Permit No. WQ0012368001; and
  - b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012368001 and Ordering Provision 2.a., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive

months of compliance with all permitted limitations. The certification shall 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 fines 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:

Water Section, Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date: 1/29/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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.

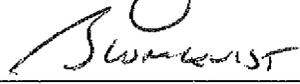
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date: 22 NOV 09

  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Real Holdings Group, LLC

\_\_\_\_\_  
Title: CEO

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.