

**Executive Summary – Enforcement Matter – Case No. 53728**  
**ADICO ENTERPRISES INC. dba Scarsdale Shell**  
**RN102793114**  
**Docket No. 2016-2079-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Scarsdale Shell, 10999 Scarsdale Boulevard, Houston, Harris County

**Type of Operation:**

Underground storage tank (“UST”) system and a convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 4, 2017

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,000

**Amount Deferred for Expedited Settlement:** \$2,400

**Total Paid to General Revenue:** \$700

**Total Due to General Revenue:** \$8,900

Payment Plan: 25 monthly payments of \$356

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** October 25, 2016

**Date(s) of NOE(s):** December 9, 2016

**Executive Summary – Enforcement Matter – Case No. 53728**  
**ADICO ENTERPRISES INC. dba Scarsdale Shell**  
**RN102793114**  
**Docket No. 2016-2079-PST-E**

***Violation Information***

1. Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent submitted a suspected release incident report to the TCEQ on October 25, 2016.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Immediately, begin maintaining all UST records and make them immediately available for inspection upon request by agency personnel;
- b. Within 30 days, conduct an investigation of the suspected release and implement appropriate corrective measures at the Facility; and
- c. Within 45 days, submit written certification to demonstrate compliance with a. and b.

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ken Moller, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6111; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Musa Adi, Owner, Scarsdale Shell, 9802 Gulf Freeway, Houston, Texas 77034-1041

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	12-Dec-2016	<b>Screening</b>	13-Dec-2016	<b>EPA Due</b>	
	<b>PCW</b>	19-Dec-2016				

### RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	ADICO ENTERPRISES INC. dba Scarsdale Shell		
<b>Reg. Ent. Ref. No.</b>	RN102793114		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

### CASE INFORMATION

<b>Enf./Case ID No.</b>	53728	<b>No. of Violations</b>	3
<b>Docket No.</b>	2016-2079-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Ken Moller
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000
		<b>EC's Team</b>	Enforcement Team 6

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  **Adjustment** **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   **Enhancement** **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Enhancement\*** **Subtotal 6**

Total EB Amounts   
 Estimated Cost of Compliance  *\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the Indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  **Reduction** **Adjustment**

Reduces the Final Assessed Penalty by the Indicated percentage.

**Notes**

**PAYABLE PENALTY**

Screening Date 13-Dec-2016

Docket No. 2016-2079-PST-E

PCW

Respondent ADICO ENTERPRISES INC. dba Scarsdale Shell

Policy Revision 4 (April 2014)

Case ID No. 53728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102793114

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	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 ( <i>number of judgments or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 20%

Screening Date 13-Dec-2016

Docket No. 2016-2079-PST-E

PCW

Respondent ADICO ENTERPRISES INC. dba Scarsdale Shell

Policy Revision 4 (April 2014)

Case ID No. 53728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102793114

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 15.0%	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent 0.0%

Matrix Notes Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 Number of violation days 166

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Two quarterly events are recommended from the June 30, 2016 release Investigation due date to the December 13, 2016 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$298 Violation Final Penalty Total \$9,000

This violation Final Assessed Penalty (adjusted for limits) \$9,000

## Economic Benefit Worksheet

**Respondent** ADICO ENTERPRISES INC. dba Scarsdale Shell

**Case ID No.** 53728

**Reg. Ent. Reference No.** RN102793114

**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

**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)	\$5,000	30-Jun-2016	8-Sep-2017	1.19	\$298	n/a	\$298

**Notes for DELAYED costs**

Estimated cost to conduct an investigation of the suspected release and implement appropriate corrective measures. The Date Required is the date the release investigation 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**

\$5,000

**TOTAL**

\$298

Screening Date 13-Dec-2016

Docket No. 2016-2079-PST-E

PCW

Respondent ADICO ENTERPRISES INC. dba Scarsdale Shell

Policy Revision 4 (April 2014)

Case ID No. 53728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102793114

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%
100% of the rule requirement was not met.					

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for llmits) \$1,500

# Economic Benefit Worksheet

**Respondent** ADICO ENTERPRISES INC. dba Scarsdale Shell

**Case ID No.** 53728

**Reg. Ent. Reference No.** RN102793114

**Media** Petroleum Storage Tank

**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**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	\$100	1-Jun-2016	25-Oct-2016	0.40	\$2	n/a	\$2
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** Estimated delayed cost to submit the suspected release incident report. The Date Required is the date the report was due and the Final Date is the compliance date.

**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** \$100

**TOTAL** \$2



Screening Date 13-Dec-2016

Docket No. 2016-2079-PST-E

PCW

Respondent ADICO ENTERPRISES INC. dba Scarsdale Shell

Policy Revision 4 (April 2014)

Case ID No. 53728

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102793114

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ken Moller

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(1)(B)

Violation Description Failed to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 49

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

## Economic Benefit Worksheet

**Respondent** ADICO ENTERPRISES INC. dba Scarsdale Shell

**Case ID No.** 53728

**Reg. Ent. Reference No.** RN102793114

**Media** Petroleum Storage Tank

**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**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	\$500	25-Oct-2016	8-Sep-2017	0.87	\$22	n/a	\$22
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**

Estimated delayed cost to maintain UST records and make them immediately available for inspection upon request by agency personnel. The Date Required is the investigation date, 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**

\$500

**TOTAL**

\$22

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

Compliance History Report for CN600976450, RN102793114, Rating Year 2016 which includes Compliance History (CH) components from September 1, 2011, through August 31, 2016.

**Customer, Respondent, or Owner/Operator:** CN600976450, ADICO ENTERPRISES INC. **Classification:** SATISFACTORY **Rating:** 11.97

**Regulated Entity:** RN102793114, Scarsdale Shell **Classification:** SATISFACTORY **Rating:** 2.81

**Complexity Points:** 7 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 10999 SCARSDALE BLVD HOUSTON, TX 77089-6028, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 23129**

**Compliance History Period:** September 01, 2011 to August 31, 2016 **Rating Year:** 2016 **Rating Date:** 09/01/2016

**Date Compliance History Report Prepared:** December 13, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 13, 2011 to December 13, 2016

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Ken Moller

**Phone:** (512) 239-6111

**Site and Owner/Operator History:**

- 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? NO

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 10/11/2012 ADMINORDER 2011-1793-PST-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failed to provide release detection for the piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2). Specifically, Respondent did not conduct the annual piping tightness test and failed to test the line leak detectors at least once per year for performance and operational reliability.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1 January 28, 2013 (1055450)

Item 2 November 29, 2016 (1375284)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**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  
ADICO ENTERPRISES INC. DBA  
SCARSDALE SHELL  
RN102793114

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2016-2079-PST-E

I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ADICO ENTERPRISES INC. dba Scarsdale Shell (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 together stipulate that:

1. The Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 10999 Scarsdale Boulevard in Houston, Harris County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$700 of the penalty and \$2,400 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$8,900 of the undeferred penalty shall be paid in 25 monthly payments of \$356 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than

30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent submitted a suspected release incident report to the TCEQ on October 25, 2016.

## II. ALLEGATIONS

During an investigation conducted on October 25, 2016, an investigator documented that the Respondent:

1. Failed to investigate a suspected release of regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not investigated.
2. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control records for April and May 2016 indicated a suspected release that was not reported.
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B).

### III. DENIALS

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

### IV. ORDERING PROVISIONS

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ADICO ENTERPRISES INC. dba Scarsdale Shell, Docket No. 2016-2079-PST-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, begin maintaining all UST records and make them immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10;
  - b. Within 30 days after the effective date of this Order, conduct an investigation of the suspected release and implement appropriate corrective measures at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
  - c. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be signed by the Respondent and shall 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:

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

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.
7. This 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 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or



issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

\_\_\_\_\_  
Date

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

6/25/18  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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

6-1-2017  
\_\_\_\_\_  
Date

MUSA A. ADI  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
ADICO ENTERPRISES INC. dba Scarsdale Shell

Owner  
\_\_\_\_\_  
Title

If mailing address has changed, please check this box and provide the new address below: