

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 61124
JOHARSKY MOTORS LLC dba Pro Auto Fix
RN111237681
Docket No. 2021-1014-AIR-E

Page 1 of 2

Order Type:

Default Order (SOAH evidentiary hearing)

Media:

AIR

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

11313 Emerald Street, Dallas, Dallas County (the “Site”)

Type of Operation:

auto body repair and refinishing site

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third Parties: None

Texas Register Publication Date: August 2, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$2,625

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$2,625

Compliance History Classifications:

Person/CN – N/A

Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): March 23, 2021

Complaint Information: Complainant alleged Respondent was spray painting vehicles in a make-shift spray painting booth.

Date(s) of Investigation: June 18, 2021, through July 21, 2021

Date(s) of NOV(s): March 23, 2021

Date(s) of NOE(s): July 26, 2021

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Violation Information

Failed to obtain authorization prior to constructing or modifying a source of air contaminants,
[TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Within 30 days submit an administratively complete registration to authorize the auto body repair and refinishing operations at the Site, including the spray-painting booth.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 180 days submit written certification to demonstrate that either authorization for all the auto body repair and refinishing operations at the Site has been obtained or that the spray-painting booth operations have ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: January 5, 2023

Date(s) of Service: January 10, 2023

Date Answer(s) Filed: April 25, 2023

SOAH Referral Date: June 12, 2023

Hearing Date(s):

Preliminary hearing: July 27, 2023; November 2, 2023 (defaulted); January 11, 2024

Evidentiary hearing: June 25, 2024 (defaulted)

Contact Information

TCEQ Attorneys: William Hogan, Litigation Division, (512) 239-3400
Sheldon Wayne, Office of Public Interest Counsel, (512) 239-6363

TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575

TCEQ Enforcement Coordinator: Desmond Martin, Enforcement Division, (512) 239-4331

TCEQ Regional Contact: Kimberli Fowler, Dallas/Ft Worth Regional Office, (817) 588-5800

Respondent Contact: Ahmad Johar, Director, Joharsky Motors LLC, 6115 Keller Springs Road, Dallas, Texas 75229

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 2-Aug-2021 | Screening | 3-Aug-2021 | EPA Due | |
| | PCW | 11-Aug-2022 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | | | |
|-----------------------------|--------------------------------------|--|---------------------------|-------|--|
| Respondent | JOHARSKY MOTORS LLC dba Pro Auto Fix | | | | |
| Reg. Ent. Ref. No. | RN111237681 | | | | |
| Facility/Site Region | 4-Dallas/Fort Worth | | Major/Minor Source | Minor | |

CASE INFORMATION

| | | | |
|--|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 61124 | No. of Violations | 1 |
| Docket No. | 2021-1014-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Kate Dacy |
| | | EC's Team | Enforcement Team 4 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$2,500 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | |
|---------------------------|------|-------------------|--------------------------------|-------|
| Compliance History | 5.0% | Adjustment | Subtotals 2, 3, & 7 | \$125 |
|---------------------------|------|-------------------|--------------------------------|-------|

| | | | | |
|--------------|--|--|--|--|
| Notes | Enhancement for one NOV with the 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 | \$423 | *Capped at the Total EB \$ Amount |
| Estimated Cost of Compliance | \$5,000 | |

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$2,625 |
|-----------------------------|-----------------------|---------|

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

Reduces or enhances the Final Subtotal by the indicated percentage.

| | | | | |
|--------------|--|--|--|--|
| Notes | | | | |
|--------------|--|--|--|--|

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$2,625 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$2,625 |
|-----------------------------------|-------------------------------|---------|

| | | | | |
|-----------------|------|------------------|-------------------|-----|
| DEFERRAL | 0.0% | Reduction | Adjustment | \$0 |
|-----------------|------|------------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage.

| | | | | |
|--------------|--|--|--|--|
| Notes | Deferral not offered for non-expedited settlement. | | | |
|--------------|--|--|--|--|

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$2,625 |
|------------------------|---------|

| | | | | |
|--------------------------------|--------------------------------------|-------------------|-----------------|---|
| Screening Date | 3-Aug-2021 | Docket No. | 2021-1014-AIR-E | PCW |
| Respondent | JOHARSKY MOTORS LLC dba Pro Auto Fix | | | <i>Policy Revision 5 (January 28, 2021)</i> |
| Case ID No. | 61124 | | | <i>PCW Revision February 11, 2021</i> |
| Reg. Ent. Reference No. | RN111237681 | | | |
| Media | Air | | | |
| Enf. Coordinator | Kate Dacy | | | |

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>) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 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 (<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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with the same or similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

| | | | | |
|--------------------------------|---|---------------------|-----------------|--------------------------------------|
| Screening Date | 3-Aug-2021 | Docket No. | 2021-1014-AIR-E | PCW |
| Respondent | JOHARSKY MOTORS LLC dba Pro Auto Fix | | | Policy Revision 5 (January 28, 2021) |
| Case ID No. | 61124 | | | PCW Revision February 11, 2021 |
| Reg. Ent. Reference No. | RN111237681 | | | |
| Media | Air | | | |
| Enf. Coordinator | Kate Dacy | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b) | | | |
| Violation Description | Failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent constructed and operated a spray-painting booth at the Site prior to obtaining the proper authorization. | | | |
| | | Base Penalty | \$25,000 | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------|-------|----------|-------|---------------------|
| OR | Harm | | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | Percent 0.0% |
| | Potential | | | | |

>> Programmatic Matrix

| | | | | | |
|-----------|----------------------|----------|-------|----------------------|--|
| OR | Falsification | | | | |
| | Major | Moderate | Minor | | |
| | | | | Percent 10.0% | |
| | | | | | |

Matrix Notes: 100% of the rule requirements were not met.

Adjustment \$22,500

\$2,500

Violation Events

| | | | |
|----------------------------|---|--------------------------|----|
| Number of Violation Events | 1 | Number of violation days | 46 |
|----------------------------|---|--------------------------|----|

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 18, 2021 investigation date through the August 3, 2021 screening date.

Good Faith Efforts to Comply

| | | | |
|---------------|--|-----------------------------------|--|
| | 0.0% | | |
| | 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 \$2,500

Economic Benefit (EB) for this violation

| | |
|--|--|
| Estimated EB Amount | Statutory Limit Test |
| \$423 | Violation Final Penalty Total \$2,625 |
| This violation Final Assessed Penalty (adjusted for limits) \$2,625 | |

Economic Benefit Worksheet

Respondent JOHARSKY MOTORS LLC dba Pro Auto Fix
Case ID No. 61124
Reg. Ent. Reference No. RN111237681
Media Air
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Costs Saved | 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 | \$5,000 | 23-Mar-2021 | 1-Dec-2022 | 1.69 | \$423 | n/a | \$423 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to obtain authorization for the spray-painting booth at the Site. The Date Required is the initial investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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 | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$423

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.



Compliance History Report

Compliance History Report for CN605876036, RN111237681, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN605876036, JOHARSKY MOTORS LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN111237681, PRO AUTO FIX **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 1 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 11313 EMERALD STREET IN DALLAS, DALLAS COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
AIR QUALITY NON PERMITTED ID NUMBER
LAP111237681

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: August 02, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: August 02, 2016 to August 02, 2021

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Kate Dacy **Phone:** (512) 239-4593

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:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

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.

- 1 Date: 03/23/2021 (1709347)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
5C THSC Chapter 382 382.085(b)
- Description: Permit applicability for New Source Review permits. Specifically, failure to obtain written authorization to emit contaminants into the air either by a New Source Review Permit, Standard Air Permit, Flexible Permit, or Permit by Rule.

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 8/2/2016 and 8/2/2021

| | | | | | | |
|---|--------------|--|---------------------------------|-----------------|----------|--|
| 1 | Date: | 03/23/2021 | (1709347) | Classification: | Moderate | |
| | Self Report? | NO | For Informational Purposes Only | | | |
| | Citation: | 30 TAC Chapter 116, SubChapter B 116.110(a) 5C THSC Chapter 382 382.085(b) | | | | |
| | Description: | Permit applicability for New Source Review permits. Specifically, failure to obtain written authorization to emit contaminants into the air either by a New Source Review Permit, Standard Air Permit, Flexible Permit, or Permit by Rule. | | | | |

* NOVs applicable for the Compliance History rating period 9/1/2015 to 8/31/2020

Appendix B

All Investigations Conducted During Component Period August 02, 2016 and August 02, 2021

| | | | |
|--------|---------------|-----------|---------------------------------|
| | | (1746171) | For Informational Purposes Only |
| Item 1 | July 26, 2021 | | |

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JOHARSKY MOTORS LLC
DBA PRO AUTO FIX;
RN111237681

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER

DOCKET NO. 2021-1014-AIR-E

On _____ the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE ch. 7, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is JOHARSKY MOTORS LLC dba Pro Auto Fix ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates an auto body repair and refinishing site located at 11313 Emerald Street in Dallas, Dallas County, Texas (the "Site"). The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003.
2. During an investigation conducted on and around June 18, 2021, through July 21, 2021, an investigator documented that Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants. Specifically, Respondent constructed and operated a spray-painting booth at the Site prior to obtaining the proper authorization.
3. 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 JOHARSKY MOTORS LLC dba Pro Auto Fix" (the "EDPRP") in the TCEQ Chief Clerk's office on January 5, 2023.
4. Respondent filed an answer requesting a hearing on April 25, 2023, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on June 12, 2023.
5. On January 11, 2024, the Administrative Law Judge ("ALJ") issued Order No. 5, which set the evidentiary hearing for June 25, 2024. The SOAH docket clerk mailed a copy of Order No. 5 to Respondent at its last known address via first class mail, postage pre-paid.
6. On June 25, 2024, the ALJ convened the evidentiary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
7. On June 25, 2024, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 8 so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to obtain authorization prior to constructing or modifying a source of air contaminants, in violation of TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) and 30 TEX. ADMIN. CODE § 116.110(a).
3. As evidenced by Finding of Fact No. 4, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(d) and 30 TEX. ADMIN. CODE § 70.109.
4. As evidenced by Finding of Fact No. 5, Respondent was provided proper notice of the evidentiary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(b), 155.401, and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.405, 39.413, 39.423, and 80.6.
5. As evidenced by Findings of Fact Nos. 6 and 7, Respondent failed to appear for the evidentiary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(e), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of \$2,625 is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of \$2,625 for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: JOHARSKY MOTORS LLC dba Pro Auto Fix; Docket No. 2021-1014-AIR-E" to:

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

3. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order, submit an administratively complete registration, in accordance with 30 TEX. ADMIN. CODE ch. 106, or permit application, in accordance with 30 TEX. ADMIN. CODE § 116.111, to authorize the auto body repair and refinishing operations at the Site, including the spray-painting booth. Respondent shall submit the application to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Respondent shall respond completely and adequately, as determined by TCEQ, to all requests for information concerning the registration or permit application by any deadline specified in writing.

- b. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 3.d., to demonstrate compliance with Ordering Provision No. 3.a.
- c. Within 180 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 3.d., to demonstrate that either authorization for all the auto body repair and refinishing operations at the Site has been obtained or that the spray-painting booth operations have ceased until such time that appropriate authorization is obtained.
- d. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, or other records, shall be signed by 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 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Air Section Manager
Dallas/Ft Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

and:

City of Dallas
Air Compliance Program
Office of Environmental Quality & Sustainability
1500 Marilla Street, Room 7A North
Dallas, Texas 75201-6318

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. 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.
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 fully executed 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.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF WILLIAM HOGAN

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JOHARSKY MOTORS LLC dba Pro Auto Fix' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 5, 2023.

Respondent filed an answer requesting a hearing on April 25, 2023, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on June 12, 2023. On January 11, 2024, the ALJ issued Order No. 5, which set the evidentiary hearing for June 25, 2024. The SOAH docket clerk mailed a copy of Order No. 5 to Respondent at its last known address via first class mail, postage pre-paid.

Respondent failed to appear at the hearing on June 25, 2024. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(e), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 8, issued on June 25, 2024, so that TCEQ may dispose of this case on a default basis."

"My name is William Hogan, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 15th day of July, 2024

William Hogan

Declarant