

**BEFORE THE STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

IN THE MATTER OF:

TENNESSEE DEPARTMENT OF
ENVIRONMENT AND CONSERVATION,
Petitioner,

v.

LAUREN AND HOPE PROPERTY, INC.
and
ANTHONY WOMEODU,
Respondents.

TDEC Case No. UST 19-0061

APD Docket No. 04.44-192637J

Facility: The Market No. 128

SETTLEMENT AGREEMENT AND ORDER

On October 2, 2019, the Division of Underground Storage Tanks (Division) served Lauren and Hope Properties, Inc. and Anthony Womeodu (Respondents) with Order and Assessment number UST 19-0061 (Order). The Respondents filed a timely appeal, through counsel, on October 30, 2019. Pursuant to Tenn. Code Ann. sections 4-5-105 and 68-215-119(b), the Division and the Respondents reached a settlement. To implement this settlement, (1) the Division Director agrees and by entering into this Settlement Agreement and Order does hereby dismiss the Order and (2) the Respondents agree and by entering into this Settlement Agreement and Order does hereby waive their right to a contested case hearing before the Underground Storage Tanks and Solid Waste Disposal Control Board and withdraw their appeal of the Order. This Settlement Agreement and Order resolves and supersedes the Order. The Parties stipulate and agree to the following:

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PARTIES

I.

David W Salyers, P.E., is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (Department), and among other duties and responsibilities, he is charged with the responsibility for administering and enforcing the Tennessee Petroleum Underground Storage Tank Act (Act), Tenn. Code Ann. sections 68-215-101 to -129. Stanley R. Boyd is the duly appointed Division Director. He has received written delegation from the Commissioner to administer and enforce aspects of the Act.

II.

Respondent Lauren and Hope Property Inc. is a corporation created in the State of Tennessee and is properly registered to conduct business in Tennessee. Lauren and Hope Property Inc. was the registered owner of three underground storage tank (“UST”) systems located at 5735 Stage Road, Memphis, Tennessee 38134 (the “Facility”).

Respondent Anthony Womeodu is the President of Lauren and Hope Property Inc. and an operator of the three USTs located at the Facility.

JURISDICTION

III.

The Commissioner may issue an order for correction to the responsible party when the Commissioner finds upon investigation that any provision of the Act is not being carried out and that effective measures are not being taken to comply with the provisions of the Act. The order shall be complied with within the time limit specified in the order. Tenn. Code Ann. § 68-215-114. Further, the Commissioner is authorized to assess civil penalties against any person who violates or fails to comply

with the Act. Tenn. Code Ann. § 68-215-121. The Commissioner of the Department delegated such authority to Stanley R. Boyd, Director of the Division.

IV.

The Respondents are “persons” as defined at Tenn. Code Ann. section 68-215-103(11).

FACTS

V.

On or about August 12, 2015, the Division received a Notification for Underground Storage Tanks form, signed by Respondent Anthony Womeodu, listing Respondent Lauren and Hope Property Inc. as the owner of the three UST systems located at the Facility. The facility ID number is 9-790827.

VI.

On or about May 10, 2016, Division personnel performed a compliance inspection at the Facility. The inspector discovered the following violations:

- Violation #1: Failure of facility having one or more petroleum UST systems to have one or more persons designated as Class A and Class B Operators in accordance with Rule 0400-18-01-.16(1)(a). Specifically, there were no designated Class A and Class B Operators for the facility at the time of the inspection.
- Violation #2: Failure to ensure that the cathodic protection system is tested every three years in accordance with Rule 0400-18-01-.02(4)(c)2(i). Specifically, there was no cathodic protection system test available at the time of the inspection.
- Violation #3: Failure to provide a release detection method capable of detecting a release from a tank that routinely contains product in accordance with Rule 0400-18-01-.04(1)(a)1. Specifically, Tank 5 (regular unleaded) contained 2 ½ inches of residue, but there was no record of release detection results available. When a UST system is temporarily closed, Rule 0400-18-01-.07(1)(a) requires owners, operators, and/or other responsible parties to

comply with Rule 0400-18-01-.04 unless the tanks are empty so that no more than one inch of residue remains in the system.

VII.

Division personnel sent correspondence to the Respondents on or about May 23, 2016; September 9, 2016; and January 5, 2017. These letters cited the violations discovered during the compliance inspection and required the Respondents to submit documentation to the Division showing correction of the compliance violations.

VIII.

Division personal sent a Notice of Violation certified letter to the Respondents on or about February 6, 2017; April 7, 2017; May 9, 2017; July 5, 2017; and July 27, 2017. The letter cited the violations discovered during the inspection and the Respondents' failure to return to compliance. The letter also explained that the following new violation was added:

Violation #4: Failure to cooperate with the Division by failing to provide documents, testing or monitoring records to the Division in accordance with Rule 0400-18-01-.03(2). Specifically, the violations discovered at the May 10, 2016, inspection, remained outstanding.

IX.

On or about August 16, 2018, Division personnel performed a compliance inspection at the Facility. The inspector discovered the same violations that were present during the May 10, 2016 compliance inspection.

X.

On or about August 17 and September 4, 2018, Division personnel sent correspondence to the Respondents. The letters cited the violations discovered during the inspection and the Respondents' failure to return the Facility to compliance.

XI.

On or about September 3, 2019, the Division issued Order and Assessment UST 19-0061 for the violations discovered during the May 10, 2016 and August 16, 2018 compliance inspections. The Order assessed civil penalties totaling \$12,720. The Respondents timely appealed the Order on October 30, 2019.

XII.

On or about September 23, 2019, Respondent Lauren and Hope Property, Inc. sold the Facility to Shubh Labh, LLC.

ORDER

XIII.

WHEREFORE, in order to resolve this matter and pursuant to the authority vested by the Act and the Commissioner's delegation, the Director and the Respondents agree as follows:

1. The Respondents shall pay \$3,840 of the \$12,720 total civil penalty assessed in the Order. The \$3,840 shall be paid on or before January 15, 2021.
2. If the Respondents fail to timely comply with paragraph 1. above, then the total civil penalty of \$12,720 shall be immediately due and payable.

XIV.

The Parties agree the foregoing Settlement Agreement and Order is a fair and reasonable resolution of this case.

DEPARTMENT’S RESERVATION OF RIGHTS

XV.

In entering this Settlement Agreement and Order, the Department does not implicitly or expressly waive any provision of the Act or the regulations promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action(s).

RESPONDENTS’ RESERVATION OF RIGHTS


The Respondents do not admit or deny the factual allegations or the alleged violations of law contained in this Settlement Agreement and Order. The Respondents reserves their rights to contest the factual allegations and alleged violations contained in this Settlement Agreement and Order in any proceeding other than a proceeding brought by the Department to enforce the terms of this Settlement Agreement and Order.

THIS SETTLEMENT AGREEMENT AND ORDER SHALL BE EFFECTIVE UPON BEING SIGNED ON BEHALF OF BOTH PARTIES.

Stanley R. Boyd

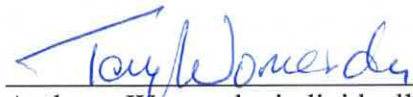
Stanley R. Boyd
Director of Division of Underground Storage Tanks
Tennessee Department of Environment and Conservation

Date: **12-29-2020**



Anthony Womeodu, President
Lauren and Hope Property, Inc., Respondent

Date: 12/23/2020



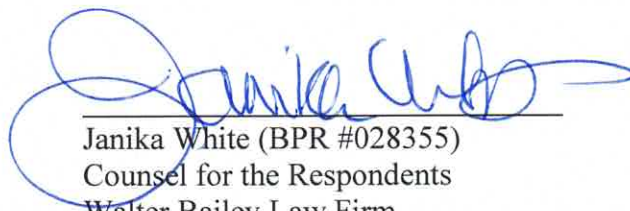
Anthony Womeodu, individually
Respondent

Date: 12/23/2020

Reviewed by:

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