

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

IN THE MATTER OF:)	
)	DIVISION OF UNDERGROUND
)	STORAGE TANKS
)	
BASS BROTHERS ENTERPRISES,)	
INC. AND MEFTUH ABBAS,)	CASE NO. UST24-0134
)	
)	
)	FACILITY: CRUMP MARKET
RESPONDENTS.)	

SETTLEMENT AGREEMENT AND ORDER

Director’s Order No. UST24-0134 (“Order”) was issued to Bass Brothers Enterprises, INC. and Meftuh Abbas (“Respondents”) on June 10, 2024. The Respondents filed a timely appeal.

Pursuant to Tennessee Code Annotated sections 4-5-105 and 68-215-119(b), David W. Salyers, P.E. (“Commissioner”) and the Respondents (collectively “the Parties”) have reached a settlement to resolve the Order and the Respondents’ appeal. To implement this settlement: (1) the Respondents hereby waive their right to a contested case hearing before the Board and withdraw the Respondents’ appeal of the Order; and (2) this Settlement Agreement and Order resolves and supersedes the Order. The Parties now stipulate and agree to the following:

PARTIES

I.

David W. Salyers, P.E., is the duly appointed Commissioner of the Department of Environment and Conservation (“Department”) and is charged with administering and enforcing the Tennessee Petroleum Underground Storage Tank Act (“Act”), Tenn. Code Ann. §§ 68-215-101 to -204. Stanley R. Boyd is the duly appointed Director of the Division of Underground Storage Tanks (“Division”) and has received written delegation from the Commissioner to administer and enforce the Act.

II.

Bass Brothers Enterprises, Inc. (“Bass Brothers”) is a corporation created in Tennessee and is registered to conduct business in Tennessee. Bass Brothers is the registered owner of two underground storage tank (“UST”) systems located in Shelby County at 1056 E.H. Crump Boulevard, Memphis, Tennessee 38104 (being the same property identified as “1056 DR M L KING JR. AVE” in the records of the Shelby County Register of Deeds) (“Facility”). Service of process was made on the Bass Brothers Enterprises’ Registered Agent Abdoulhafiz Abbas, at 1056 E.H. Crump Boulevard, Memphis, Tennessee.

Meftuh Abbas is an individual and the registered Operator of the Facility. Service of process was made on the Meftuh Abbas at 6586 Hollister Cove, Bartlett, Tennessee 38135.

Bass Brothers and Meftuh Abbas will hereinafter collectively be referred to as the "Respondents."

JURISDICTION

III.

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 Commissioner may issue an Order for correction to the responsible party, and this Order shall be complied with within the time limit specified in the Order. Tenn. Code Ann. § 68-215-114. If this Order becomes final, the Commissioner may affix a notice of petroleum delivery prohibition ("red tag") to the facility fill ports and/or dispensers and give notice on the Department's website of petroleum delivery prohibition. Tenn. Code Ann. § 68-215-106(c). 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. Rules governing USTs have been promulgated pursuant to Tenn. Code Ann. § 68-215-107(f) and are effective as Tenn. Comp. R. & Regs. 0400-18-01-.01 to -.17 ("Rules").

IV.

The Respondents are persons as defined at Tennessee Code Annotated section 68-215-103(11), both are a responsible party as defined at Tennessee Code Annotated section 68-215-117(A), and have violated the Act.

FACTS

V.

On August 22, 2001, the Division received a Notification for Underground Storage Tanks form, signed by Meftuh Abbas, listing the Meftuh Abbas as the owner of the two UST systems located at 1056 DR M L KING JR. AVE, Memphis, Tennessee 38104, being one and the same property as 1056 E.H. Crump Boulevard, Memphis, Tennessee 38104. On or about February 12, 2003, Meftuh Abbas requested that the Division update the ownership of the facility to Bass Brothers Enterprises, Inc. Bass Brothers Enterprises, Inc. has since been recognized by the Division as the registered owner of the two UST systems located at the above referenced facility. On October 17, 2012, Meftuh Abbas accepted responsibility as the facility's Class A and Class B Operator. The facility ID number is 9-791239.

VI.

On November 27, 2023, Division personnel performed a compliance inspection at the Facility. The inspector discovered thirteen violations.

VII.

Between November 29, 2023 to March 11, 2024 the Division sent the Respondents multiple letters that cited the violations discovered during the inspection and the Respondents' failure to return to compliance. These letters explained how to address each violation and extended the deadline to return to compliance multiple times. While the Respondents addressed some of the violations discovered in the November 27, 2023 inspection, they failed to correct others which resulted in an Order that assessed a \$15,600.00 civil penalty, required remedial action, and ordered the Respondents to complete operator retraining.

VIII.

Prior to the issuance of the Order, the Respondents did not fully cooperate and remained in non-compliance with the Division.

VIOLATIONS

IX.

After the Order was issued, the Respondents submitted documentation to the Division showing that the outstanding violations set forth in the Order were addressed. Accordingly, the Respondents have now addressed the violations set forth in the Order and recited below in sections X.-XV.

X.

By failing to operate a UST in compliance with the Act, the Respondents violated Tennessee Code Annotated section 68-215-104(2), which states, in pertinent part:

It is unlawful to: Construct, alter or operate a petroleum underground storage tank in violation of this chapter or the rules or regulations established pursuant thereto[.]

XI.

The Respondents violated Rule 0400-18-01-.16(2)(a), which states, in pertinent part:

0400-18-01-.16 CERTIFIED OPERATOR PROGRAM.

...

(2) Operator Training Requirements

(a) Persons to be classified as Class A, Class B, or Class C Operators must log on to the Division's web-based training database and indicate how operator training requirements are met for each applicable classification[.]

XII.

The Respondents violated Rule 0400-18-01-.02(3)(a)1(i), which states, in pertinent part:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

...

(3) Spill and overfill prevention.

(a) Equipment.

1. Except as provided in parts 2. and 3. of this subparagraph, to prevent spilling and overfilling associated with petroleum transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment:

(i) Spill prevention equipment that will prevent release of petroleum to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin)[.]

XIII.

The Respondents violated Rule 0400-18-01-.02(3)(a)1(ii), which states, in pertinent part:

0400-18-01-.02 UST SYSTEMS: INSTALLATION AND OPERATION.

...

(3) Spill and overfill prevention.

(a) Equipment.

1. Except as provided in parts 2. and 3. of this subparagraph, to prevent spilling and overfilling associated with petroleum transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment:

...

(ii) Overfill prevention equipment[.]

XIV.

The Respondents violated Rule 0400-18-01-.16(4), which states:

0400-18-01-.16 CERTIFIED OPERATOR PROGRAM.

...

(4) Retraining

If the division determines that the UST system is out of compliance at any time, then successful completion of operator retraining appropriate to the level of the operator Class must be completed within 30 days from the date the division determines that the UST system is out of compliance.

XV.

The Respondents violated Rule 0400-18-01-.03(2), which states:

0400-18-01-.03 NOTIFICATION, REPORTING, AND RECORD KEEPING.

...

(2) Reporting and record keeping.

Owners, operators, and/or other responsible parties of UST systems shall cooperate fully with inspections, monitoring and testing conducted by the Division, as well as requests for document submission, testing, and monitoring by the owner, operator, and/or other responsible parties in accordance with the Tennessee Petroleum Underground Storage Tank Act T.C.A. §§ 68-215-101 et seq.

ORDER AND ASSESSMENT

XVI.

Pursuant to the authority vested by sections 68-215-107, -114, and -121 of the Act, the Director orders, and the Respondents agree, as follows:

1. The Respondents shall not allow any Operator Retraining Violations ("ORV's"), as listed in Exhibit A attached to this Settlement Agreement and Order, to occur at the Facility for a period of one year from the Effective Date of this Settlement Agreement and Order.
2. The Respondents are assessed a civil penalty totaling \$15,600.00 and \$120.00 in damages. The Respondents shall pay as follows:
 - a. As set forth herein, the Respondents shall pay the Division twelve monthly installments of \$933 each, totaling \$11,196.00. This amount represents an assessed civil penalty of \$11,076.00 plus \$120.00 for the cost of the private process server used to serve the

Order. The Respondents will pay the initial installment such that it is received by the Department within 30 days of the Effective Date of this Settlement Agreement and Order. However, if the Effective Date is within the last week of the month, then the initial installment shall be paid such that it is received by the Department by the first day of the second month following the entry of this Settlement Agreement and Order. All remaining consecutive monthly payments of \$933 shall be paid such that they are received by the Department by the first day of the month.

- b. The Respondents shall pay the remaining unpaid portion of the \$15,600.00 civil penalty if the Respondents fail to timely make the payment provided for in paragraph 2.a or fail to otherwise comply with any other provision set forth in this Settlement Agreement and Order. If the Respondents allow any ORVs at the Facility within one year of the Effective Date of this Settlement Agreement and Order or fail to timely make the required payment, the remaining unpaid portion of the full civil penalty shall be immediately due and owing.
3. All payments contemplated herein must be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Pkwy, 6th Floor, Nashville, Tennessee 37243. The case number, "UST24-0134," must be clearly shown on the check or money order to ensure that the payment is properly credited.
4. The Respondents' appeal is withdrawn. The Parties agree that this Settlement Agreement and Order is a final order, as contemplated by Tenn. Code Ann. § 68-215-106(c). If the Respondents fail to comply with this Settlement Agreement and Order within the timeframes stated herein, or otherwise breaches this agreement, the remaining unpaid portion of the civil penalty shall be immediately due and owing and **the Facility will be placed on the Delivery Prohibition List and the fill ports and dispensers will be red tagged until any unpaid civil penalties are paid and compliance is achieved.**
5. This Settlement Agreement and Order is the product of the Parties' joint efforts, and for purposes of applying any rule of construction, the Parties shall be deemed to have participated equally in the drafting of this Settlement Agreement and Order.
6. The Parties have consulted with their respective counsel (or had the opportunity to do so) regarding this Settlement Agreement and Order and each enters into this agreement voluntarily and with full knowledge of its legal consequences.
7. This Settlement Agreement and Order shall be governed by and interpreted according to the laws of the State of Tennessee.

8. Each of the undersigned representatives is fully authorized by the Party he or she represents to enter into the terms and conditions of this Settlement Agreement and Order and is authorized to legally bind such Party to this agreement.
9. The "Effective Date" of this Settlement Agreement and Order shall be the date it is approved and signed by the Director of the Division of Underground Storage Tanks.

XVII.

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

DEPARTMENT'S RESERVATION OF RIGHTS

XVIII.

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 Respondents. 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).

AUTHORITY TO SIGN

XIX.

The undersigned representatives of the Department and the Respondents hereby represent and warrant that they are fully authorized and competent to execute this Settlement Order and Agreement on behalf of the entity for which they are signing.

Agreed to by Bass Brothers Enterprises, INC. and Meftuh Abbas, as evidenced by the signature below, and executed by the Director of the Division of Underground Storage Tanks, on this 20th day of September, 2024.

Stanley R. Boyd

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

RESPONDENTS:

MEFTUH ABBAS

[Handwritten signature of Meftuh Abbas]

Meftuh Abbas

BASS BROTHERS ENTERPRISES, INC.

By: Meftuh Abbas
Meftuh Abbas

Title: Owner

Reviewed by:

Michael Lewis

Michael D. Lewis
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EXHIBIT A - LIST OF OPERATOR RETRAINING VIOLATIONS		
Violation	State Cite	Rule Section
Failure of tanks installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(a)1	UST Systems: Installation & Operation (Secondary Containment)
Failure to provide interstitial monitoring on tanks installed on or after July 24, 2007.	0400-18-01-.02(2)(a)5	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be secondarily contained.	0400-18-01-.02(2)(b)1	UST Systems: Installation & Operation (Secondary Containment)
Failure of piping installed on or after July 24, 2007 to be monitored for a release at least every thirty (30) days.	0400-18-01-.02(2)(b)5	UST Systems: Installation & Operation (Secondary Containment)
Failure to install any spill prevention system.	0400-18-01-.02(3)(a)1(i)	UST Systems: Installation & Operation
Failure to install any overflow prevention system.	0400-18-01-.02(3)(a)1(ii)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal tanks.	0400-18-01-.02(4)(a)	UST Systems: Installation & Operation
Failure to permanently close a lined tank where CP was not added by the December 22, 2012 deadline.	0400-18-01-.02(4)(a)3(v)	UST Systems: Installation & Operation
Failure to provide any cathodic protection for metal piping.	0400-18-01-.02(4)(b)	UST Systems: Installation & Operation
Failure to provide release detection method capable of detecting a release from tank or piping that routinely contains product.	0400-18-01-.04(1)(a)1	Release Detection (General)
Failure to install, calibrate, operate, or maintain release detection method in accordance with manufacturer's instructions.	0400-18-01-.04(1)(a)2	Release Detection (General)
Failure to provide a release detection method that meets the performance requirements for tanks or piping.	0400-18-01-.04(1)(a)3	Release Detection (General)
Failure to monitor tanks at least every 30 days, if appropriate.	0400-18-01-.04(2)(a)	Release Detection (General)
Failure to provide any release detection for underground piping.	0400-18-01-.04(2)(b)	Release Detection (Piping)
Failure to install line leak detector for pressurized underground piping.	0400-18-01-.04(2)(b)1(i)	Release Detection (Pressurized Piping)
Failure to conduct annual line tightness test or do monthly monitoring on pressurized underground piping	0400-18-01-.04(2)(b)1(ii)	Release Detection (Pressurized Piping)
Failure to comply with general remedial requirements.	0400-18-01-.06	Petroleum Release Response, Remediation, and Risk Management
Division not notified of tank closure.	0400-18-01-.07(4)(a)1-2	Out-of-Service UST Systems and Closure
Failure to conduct system closure sampling.	0400-18-01-.07(5)(a)-(b)	Out-of-Service UST Systems and Closure
Failure to register an underground storage tank in accordance with the statute.	Tenn. Code Ann. § 68-215-106(a)	Tennessee Code Annotated
Placing petroleum into an underground storage tank system(s) where the Division has attached a tag or notice to the dispensers or fill ports or that has been placed on the Delivery Prohibition list on the website.	Tenn. Code Ann. §§ 68-215-106(c) and (e) 0400-18-01-.10(6)(a)	Fee Collection
Illegal Red Tag Removal	Tenn. Code Ann. § 68-215-106(c)-(d)	Tennessee Code Annotated