



FLORIDA DEPARTMENT OF Environmental Protection

South District Branch Office
2796 Overseas Highway, Suite 221
Marathon, FL 33050
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Shawn Hamilton
Interim Secretary

August 25, 2021

Via Electronic Mail

Stephen C Ban Family Trust Fund, Property Owner,
C/O Andrea Tecce, Trustee
1815 Central Park Drive, Suite 110 PMB 219
Steamboat Springs, CO 80487
andreatecce@me.com

RECEIVED
SEP 03 2021
D.E.P. Marathon

and

Mashuk Ahmed, Owner and Officer
Ray & Don Enterprises, Inc. DBA Fairway Market
3896 Overseas Highway, Marathon, FL 33050
mashuk_a@hotmail.com

SUBJECT: Department of Environmental Protection v. Andrea Tecce, as Trustee of the Stephen C Ban Family Trust Fund, Ray & Don Enterprises, Inc. DBA Fairway Market and Mashuk Ahmed, OGC File No.: 21-0829
TANK FACILITY ID# 8628188

Ms. Andrea Tecce and Mr. Mashuk Ahmed:

The State of Florida Department of Environmental Protection ("Department") finds that Andrea Tecce, as Trustee of the Stephen C Ban Family Trust Fund, Ray & Don Enterprises, Inc. DBA Fairway Market and Mashuk Ahmed ("Respondents") operated the above referenced facility in violation of the Florida Administrative Code ("F.A.C.") rules cited below:

- 62-761.100(3) F.A.C.: No reasonable site access provided to the Department inspector during the 4/21/2021 site visit.
- 62-761.710(2) F.A.C.: The facility is required to keep 3 years of records. The testing records for year 2018 were not available for review.
- 62-761.420(2) F.A.C.: Failure to maintain and demonstrate financial responsibility. Financial Responsibility ("FR") expired on 3/15/2021.

- 62-761.700(1)(c) F.A.C.: Repair not made in accordance with manufacturer's specifications and applicable reference guidelines. RUL STP sump components paint bubbled and corroded. Incorrect paint was used to coat and protect system components.

Before sending this letter, the Department requested that the Respondents undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondents remains subject to civil penalties for the unresolved violations. The Respondents are also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$ 10,750.00 in civil penalties and \$ 500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$ 11,250.00. The civil penalties are apportioned as follows: \$ 1,000.00 for violation of Rule 62-761.100(3), F.A.C.; \$ 750.00 for violation of Rule 62-761.710(2), F.A.C.; \$ 7,500.00 for violation of Rule 62-761.420(2), F.A.C.; and \$ 1,500.00 for violation of Rule 62-761.700(1)(c), F.A.C..

Respondents' Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondents, please sign this letter and return it to the Department at Florida Department of Environmental Protection, 2796 Overseas Highway, Suite 221, Marathon, FL 33050 within 14 days of receipt of this notice. You may send the signed letter via electronic mail to Gus.Rios@Floridadep.gov . The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Andrea Tecce and Mashuk Ahmed:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of the Respondents;
- (2) acknowledge and waive Respondents' right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;

- (3) acknowledge and waive Respondents' right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondents' acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondents' Performance

After signing and returning this document to the Department,

- (1) Respondents must pay \$ 11,250.00 in full within 180 days from effective date of the Consent Order. The Department prefers one full payment of the total penalties amount, however up to three (3) separate payments will be accepted.
- (2) Respondents shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final, effective and filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondents nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondents, whose interests will be substantially affected.

Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondents and the Department, and filed with the clerk of the Department.

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Please be aware that if the Respondents decline to respond to the Department's offer, the Department will assume that the Respondents are not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Gus Rios at 305-289-7081 or at Gus.Rios@FloridaDEP.

Sincerely,



Jon M. Iglehart
Director of District Management
South District Office

cc: Judy Greenman, (greenman.judy@gmail.com)
Frank Greenman (greenmanlawpa@gmail.com)

Enterprises, Inc. DBA Fairway Market and Mashuk Ahmed.

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FOR RESPONDENT STEPHEN C BAN FAMILY TRUST FUND:

I, Andrea Tecce, HEREBY ACCEPT THE TERMS OF THE SETTLEMENT
OFFER IDENTIFIED ABOVE.

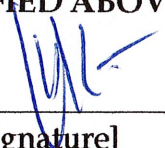
By: Andrea Tecce
[Signature]

Date: 9/2/2021

Title: Trustee
[Type or Print]

FOR RESPONDENT RAY & DON ENTERPRISES, INC. DBA FAIRWAY MARKET:

I, Mashuk Ahmed , HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

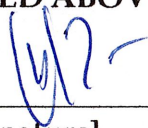
By: 
[Signature]

Date: 9.2.21

Title: Owner/Officer
[Type or Print]

FOR RESPONDENT MASHUK AHMED:

I, Mashuk Ahmed , HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.

By: 
[Signature]

Date: 9.2.21

Enterprises, Inc. DBA Fairway Market and Mashuk Ahmed.

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FOR DEPARTMENT USE ONLY

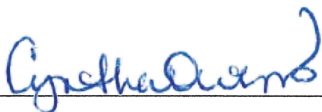
DONE AND ORDERED this 3rd day of September, 2021, in
Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
District Director
South District Office

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

September 3, 2021
Date

Attachments: Notice of Rights

Final clerked copy furnished to:

Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

NOTICE OF RIGHTS

Persons who are not parties to this Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Order means that the Department's final action may be different from the position it has taken in the Order.

The petition for administrative hearing must contain all of the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS# 35, Tallahassee, Florida 32399-3000 or received via electronic correspondence at Agency_Clerk@floridadep.gov, within 21 days of receipt of this notice. A copy of the petition must also be mailed at the time of filing to the District Office at the address indicated above. Failure to file a petition within the 21-

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day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.