

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS

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SUIT NO. 128073 DIVISION I

17<sup>th</sup> JUDICIAL DISTRICT COURT

VERSUS

PARISH OF LAFOURCHE

CALVIN PRICE, SR. AND LISA PRICE

STATE OF LOUISIANA

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**EX PARTE PETITION TO MAKE COMPLIANCE ORDER(S) EXECUTORY  
PURSUANT TO LA. R.S. 40:6(G)**

The petition of Dr. Jimmy Guidry, M.D., in his official capacity as State Health Officer, Louisiana Department of Health and Hospitals ("DHH"), Office of Public Health, through undersigned counsel, respectfully represents:

1.

Dr. Jimmy Guidry, State Health Officer for DHH, Office of Public Health, is granted jurisdiction and authority to enforce the State Public Health Sanitary Code (Louisiana Administrative Code Title 51) pursuant to La. R.S. 40:4 and R.S. 40:5, including enforcement of compliance orders pursuant to LSA R.S. 40:6(G).

2.

Made defendant herein are **Calvin Price, Sr.** and **Lisa Price** (hereinafter "Defendants"), persons of full age of majority domiciled in Lafourche Parish, Louisiana.

3.

Defendants are the owners of the house and premises located at 347 Ayo Street, Raceland, Louisiana 70394.

4.

A Compliance Order issued pursuant to La. R.S. 40:4, 40:5, 40:6, and Public Health Sanitary Code Part I, §111, signed by Dr. Jimmy Guidry, State Health Officer, and J.T. Lane, DHH Assistant Secretary for the Office of Public Health, was delivered by certified mail, return receipt requested, to Defendants on December 18, 2013. A certified copy of said Compliance Order, which bears the DHH-assigned number OPH-2013-OW-012, together with all attachments thereto, is attached to this petition as **Exhibit DHH-A**. The return receipt associated with the certified mailing of Compliance Order No. OPH-2013-OW-012 is attached hereto as **Exhibit DHH-B**.

5.

As more particularly described therein, Compliance Order No. OPH-2013-OW-012 was

issued only after DHH personnel conducted various inspections and provided Defendants with all notice(s) required under the Public Health Sanitary Code Part I.

6.

Compliance Order No. OPH-2013-OW-012 was issued to Defendants because they failed, after numerous notices and other attempts by DHH to obtain voluntary compliance, to comply with Public Health Sanitary Code Part XIII, §305(A), which states that:

A person shall not directly or indirectly discharge, or allow to be discharged, the contents or effluent from any plumbing fixtures, vault, privy, portable toilet, or septic tank, into any road, street, gutter, ditch, water course, body of water, or onto the surface of the ground.

7.

As noted in the exhibits attached to Compliance Order No. OPH-2013-OW-012, the onsite sewage treatment system presently in use at Defendants' house is not a DHH approved system; is not functioning properly, is in disrepair (broken cover), and is discharging partially treated sewage into a catch basin situated beside Ayo Street.

8.

Despite being properly served with Compliance Order No. OPH-2013-OW-012, Defendants did not thereafter, within the twenty days allowed under Public Health Sanitary Code Part I, §111 or otherwise, submit to either DHH or the Division of Administrative Law any form of written request that might be construed as a request for an administrative appeal of said Compliance Order.

9.

A Notice and Order of Imposition of Penalties ("NOIP") issued pursuant to La. R.S. 40:4, 40:5, 40:6, and Public Health Sanitary Code Part I, §113, signed by Dr. Jimmy Guidry and J.T. Lane, was delivered by certified mail, return receipt requested, to Defendants on March 28, 2014. A certified copy of the NOIP is attached hereto as **Exhibit DHH-C**. The return receipt associated with the certified delivery of the NOIP is attached hereto as **Exhibit DHH-D**.

10.

As noted therein, the NOIP was preceded by a Post Order Inspection Report ("POIR"), attached hereto as **Exhibit DHH-E**, conducted and completed by DHH personnel on January 7, 2014, and served upon Defendants by certified mailing, return receipt requested, on January 10, 2014. The return receipt associated with the certified mailing of the POIR is attached hereto as

**Exhibit DHH-F.**

11.

DHH issued the NOIP because Defendants failed to notify DHH in writing, as required by the POIR, that they had complied with Compliance Order No. OPH-2013-OW-0012.

12.

The Defendants timely requested an administrative appeal of the NOIP, but their appeal was thereafter dismissed by the assigned Administrative Law Judge when Defendants failed to appear for the scheduled hearing. See Order of Dismissal attached hereto as **Exhibit DHH-G**.

13.

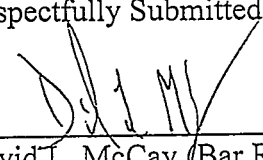
The Defendants have not complied with all of the actions required by Compliance Order No. OPH-2013-OW-012, nor paid the penalty assessed by the NOIP. DHH is thus entitled to an ex parte judgment making both Compliance Order No. OPH-2013-OW-012 and the NOIP a judgment of the district court and making the judgment executory, pursuant to La. R.S. 40:6(G).

14.

Petitioner also suggests that the filing of this Petition and attached documents should be free from payment of any costs of court or other security bonds pursuant to La. R.S. 40:31, which exempts the Department of Health and Hospitals, and its agents and subdivisions, from court costs in any suit.

WHEREFORE, petitioner Dr. Jimmy Guidry, State Health Officer, Louisiana Department of Health and Hospitals ("DHH"), Office of Public Health, prays that Compliance Order No. OPH-2013-OW-012 and the NOIP be made executory in this court, pursuant to La. R.S. 40:6(G), that all costs of these proceedings be taxed against the defendant, and for all other general and equitable relief warranted.

Respectfully Submitted:

  
\_\_\_\_\_  
David L. McCay (Bar Roll No. 23527)  
La. Department of Health and Hospitals  
Bureau of Legal Services  
P.O. Box 3836  
Baton Rouge, Louisiana 70821-3836  
Telephone: (225) 342-1123; fax 342-2232  
david.mccay@la.gov

FILED

AUG 21 2015

CLERK OF COURT

LOUISIANA DEPARTMENT OF  
HEALTH AND HOSPITALS

\* SUIT NO. \_\_\_\_\_  
\*  
\* 17<sup>th</sup> JUDICIAL DISTRICT COURT  
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\* PARISH OF LAFOURCHE  
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\* STATE OF LOUISIANA

VERSUS

CALVIN PRICE, SR. AND LISA PRICE

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**AFFIDAVIT**

STATE OF LOUISIANA

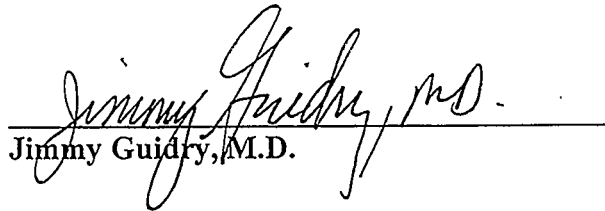
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:


**Dr. Jimmy Guidry, State Health Officer**

who, after being duly sworn, did depose and state:

That he is the petitioner in the above and foregoing petition, that he has read the above-captioned petition, and that all of the allegations of fact contained therein are true and correct to the best of his information, knowledge, and belief.

  
Jimmy Guidry, M.D.

SWORN TO AND SUBSCRIBED before me, Notary Public, on this 12<sup>th</sup> day of August, 2015.

  
NOTARY PUBLIC  
DAVID L. McCAY  
LA BAR ROLL #23527  
NOTARY PUBLIC, STATE OF LOUISIANA  
MY COMMISSION IS FOR LIFE

FILED

AUG 21 2015

CLERK OF COURT

LOUISIANA DEPARTMENT OF  
HEALTH AND HOSPITALS

VERSUS

CALVIN PRICE, SR. AND LISA PRICE

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SUIT NO. \_\_\_\_\_  
17<sup>th</sup> JUDICIAL DISTRICT COURT  
PARISH OF LAFOURCHE  
STATE OF LOUISIANA

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**JUDGMENT**

The court, having reviewed the above and foregoing petition, together with all exhibits and affidavits attached thereto, finds the law and evidence in favor of plaintiff, Louisiana Department of Health and Hospitals, and against the defendants, **Calvin Price, Sr. and Lisa Price** (whose dates-of-birth and social security numbers are unknown to plaintiff). Accordingly:

**IT IS ORDERED, ADJUDGED, AND DECREED** that Compliance Order No. OPH-2013-OW-012, issued by the Louisiana Department of Health and Hospitals to Calvin Price, Sr. and Lisa Price, a copy of which is attached hereto, is hereby made an executory judgment of this court; and

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the Notice and Order of Imposition of Penalties dated March 18, 2014, issued by the Louisiana Department of Health and Hospitals to Calvin Price, Sr. and Lisa Price, a copy of which is attached hereto, is hereby made an executory judgment of this court and, accordingly, judgment is hereby rendered in favor of the plaintiff, Louisiana Department of Health and Hospitals, and against the defendants, Calvin Price, Sr. and Lisa Price, in the amount of **Six Thousand Eight Hundred and 0/100 Dollars (\$6,800.00)**, together with legal interest thereon from date of judicial demand until paid, and for all costs.

SIGNED in chambers this 26<sup>th</sup> day of August, 2015, at  
Thibodaux, Louisiana.

Christopher J. Bondreux  
JUDGE, 17<sup>th</sup> Judicial District Court

**PLEASE SERVE NOTICE, PETITION WITH ATTACHMENTS, AND JUDGMENT ON:**

Calvin Price, Sr. and Lisa Price  
340 Ayo Street  
Raceland, Louisiana 70394

FILED

AUG 21 2015  
[Signature]  
CLERK OF COURT

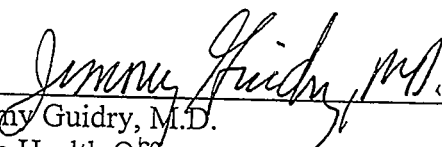
STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE

**CERTIFICATION OF  
COMPLIANCE ORDER**


BE IT KNOWN THAT on the date hereinafter noted, before me, the undersigned Notary Public, did personally appear:

**Jimmy Guidry, M.D., State Health Officer**

Who did declare that, pursuant to the requirements of La. R.S. 40:6(G)(1), he does hereby certify that the attached records of the Louisiana Department of Health and Hospitals, consisting of 24 sheets of paper, constitute a true, correct, and complete copy of the *Compliance Order* number **OPH-2013-OW-012** issued by said department, including any all addenda, exhibits, and attachments made a part thereof. Who did further declare that, in his capacity as State Health Officer, he is authorized to act as custodian of all such compliance orders, and is further authorized to make any necessary certifications with respect thereto.

  
\_\_\_\_\_  
Jimmy Guidry, M.D.  
State Health Officer

THUS DONE AND SIGNED before me, the undersigned Notary Public, this 12<sup>th</sup> day  
of August, 2015.

  
\_\_\_\_\_  
NOTARY PUBLIC  
DAVID L. McCAY  
LA BAR ROLL #23527  
NOTARY PUBLIC, STATE OF LOUISIANA  
MY COMMISSION IS FOR LIFE

**FILED**  
AUG 21 2015  
CLERK OF COURT