

LOUISIANA DEPARTMENT OF
HEALTH AND HOSPITALS

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SUIT NO. 128071
17th JUDICIAL DISTRICT COURT
PARISH OF LAFOURCHE
STATE OF LOUISIANA

VERSUS

DARREN SANDERS, SR.

**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 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 is **Darren Sanders, Sr.** (hereinafter “Defendant”), a person of full age of majority domiciled in Lafourche Parish, Louisiana.

3.

Defendant is the owner of the house and premises located at 2007 St. Bernard Street, Thibodaux, Louisiana 70301.

4.

A Compliance Order issued pursuant to La. R.S. 40:4, 40:5, 40:6, and 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 hand delivered to Defendant on August 8, 2014. A certified copy of said Compliance Order, which bears the DHH-assigned number OPH-2014-OW-009, together with all attachments thereto, is attached to this petition as **Exhibit DHH-A**. The process server’s return associated with the hand delivery of Compliance Order No. OPH-2014-OW-009 is attached hereto as **Exhibit DHH-B**.

5.

As more particularly described therein, Compliance Order No. OPH-2014-OW-009 was issued only after DHH personnel conducted various inspections and provided Defendant with all

notice(s) required under Sanitary Code Part I.

6.

Compliance Order No. OPH-2014-OW-009 was issued to Defendant because he failed, after numerous notices and other attempts by DHH to obtain voluntary compliance, to comply with 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-2014-OW-009, the onsite aerobic sewage treatment system presently in use at Defendant's house does not have an aerator attached, nor are all associated waste plumbing lines attached to the treatment system, in violation of Sanitary Code Part XIII, §707(A), which states that:

Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.

8.

Despite being properly served with Compliance Order No. OPH-2014-OW-009, Defendant did not thereafter, within the twenty days allowed under 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 Sanitary Code Part I, §113, signed by Dr. Jimmy Guidry and J.T. Lane, was hand delivered via domiciliary service to Defendant on October 24, 2014. A certified copy of the NOIP is attached hereto as **Exhibit DHH-C**. The process server's return associated with the hand 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 August 28, 2014, and served upon Defendant via hand delivery on the same date, as evidenced by Defendant's

signature on the POIR, and the process server's return attached hereto as **Exhibit DHH-F**.

11.

DHH issued the NOIP because Defendant failed to notify DHH in writing, as required by the POIR, that he had complied with Compliance Order No. OPH-2014-OW-009.

12.

DHH received a hand written letter of appeal and request for reduction and mitigation of the NOIP from Defendant on December 5, 2014. A copy of the letter is attached hereto as **Exhibit DHH-G**. A response to Defendant's letter of appeal was composed by a representative of DHH and mailed via United States Postal Service, Certified Receipt, and Return Receipt Requested, on April 14, 2015, informing Defendant that his appeal was untimely and reduction and mitigation of the fines could be considered only when the violations have been corrected. A copy of said response to Defendant is attached hereto as **Exhibit DHH-H**. A copy of the return receipt for Defendant's acceptance of said response is attached hereto as **Exhibit DHH-I**.

13.

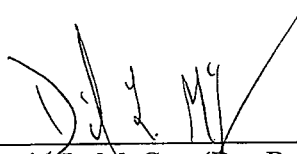
The Defendant has not complied with all of the actions required by Compliance Order No. OPH-2014-OW-009, nor paid the penalty assessed by the NOIP. DHH is thus entitled to an ex parte judgment making both Compliance Order No. OPH-2014-OW-009 and the NOIP a judgment of the district court and making the 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-2014-OW-009 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. _____
*
* 17th JUDICIAL DISTRICT COURT
*
* PARISH OF LAFOURCHE
*
* STATE OF LOUISIANA

VERSUS

DARREN SANDERS, SR.

AFFIDAVIT

STATE OF LOUISIANA

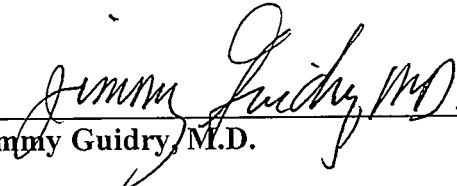
PARISH OF EAST BATON ROUGE

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 12th 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

* SUIT NO. _____
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* 17th JUDICIAL DISTRICT COURT
*
* PARISH OF LAFOURCHE
*
* STATE OF LOUISIANA

VERSUS

DARREN SANDERS, SR.

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 defendant, **Darren Sanders, Sr.** (whose date-of-birth and social security number are unknown to plaintiff). Accordingly:

IT IS ORDERED, ADJUDGED, AND DECREED that Compliance Order No. OPH-2014-OW-009, issued by the Louisiana Department of Health and Hospitals to Darren Sanders, Sr., 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 September 23, 2014, issued by the Louisiana Department of Health and Hospitals to Darren Sanders, Sr., 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 defendant, Darren Sanders, Sr., in the amount of **Nine Thousand Four Hundred Fifty and 0/100 Dollars (\$9,450.00)**, together with legal interest thereon from date of judicial demand until paid, and for all costs.

SIGNED in chambers this 27th day of August, 2015, at Thibodaux, Louisiana.

S. F. Hugh LaRose
JUDGE, 17th Judicial District Court

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

Darren Sanders, Sr.
2007 St. Bernard Street
Thibodaux, Louisiana 70301

FILED
AUG 21 2015
S. O. Adams
CLERK OF COURT

STATE OF LOUISIANA

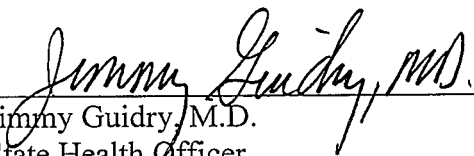
PARISH OF EAST BATON ROUGE

**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 27 sheets of paper, constitute a true, correct, and complete copy of the *Compliance Order* number **OPH-2014-OW-009** 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 12th 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

JIMMY GUIDRY, M.D.
STATE HEALTH OFFICER

STATE OF LOUISIANA

VERSUS

DEPARTMENT OF HEALTH
& HOSPITALS

DARREN SANDERS, SR., OWNER
2007 ST. BERNARD STREET
THIBODAUX, LA 70301

OFFICE OF PUBLIC HEALTH

**COMPLIANCE ORDER
OPH-2014-OW-009**

The State Health Officer acting through the Office of Public Health of the Department of Health & Hospitals is statutorily responsible for the promulgation and enforcement of the Louisiana Public Health Sanitary Code pursuant to LSA-R.S. 36:258 (B), LSA-R.S. 40:4, and LSA-R.S. 40:5.

WHEREAS, the Lafourche Parish Sanitarian Services acting through the Office of Public Health, is the properly designated agent of the Department of Health and Hospitals for the enforcement of the Louisiana Public Health Sanitary Code.

WHEREAS, Darren Sanders, Sr., hereafter referred to as the Respondent, a person of full age of majority, domiciled in Lafourche Parish, Louisiana, owns the property at 2007 St. Bernard Street, Thibodaux, LA 70301.

A copy of the property assessment is attached hereto as **Exhibit A**.

WHEREAS, on February 12, 2014 Tamerage Granier, Sanitarian, conducted an inspection of the sewage system at 2007 St. Bernard Street, Thibodaux, LA 70301. The inspection revealed that the aerator was not connected to the aerobic treatment unit and the wastewater collection lines were not connected to the aerobic treatment unit. These conditions are in violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 3, §305.A, as follows:

“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.”

And Chapter 7, §707.A.:

“Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.”

A copy of same is attached hereto as **Exhibit B..B2**.

WHEREAS, on February 14, 2014 a Notice of Violation letter was mailed via United States Postal Service, Certified Mail and Return Receipt Requested, to the Respondent, stating the violations of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A, as follows:

“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.”

And Chapter 7, §707.A.:

“Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.”

The letter requested that the Respondent repair the approved sewage system by March 17, 2014.

A copy of same is attached hereto as **Exhibit C**.

WHEREAS, on March 17, 2014 Tamerage Granier, Sanitarian, conducted an inspection of the sewage system at 2007 St. Bernard Street, Thibodaux, LA 70301. The inspection revealed that the aerator was still not connected to the aerobic treatment unit and wastewater collection lines were not connected to the aerobic treatment unit. These conditions are in violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 3, §305.A, as follows:

“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.”

And Chapter 7, §707.A.:

“Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.”

A copy of same is attached hereto as **Exhibit D..D2.**

WHEREAS, on March 20, 2014 an additional Notice of Violation letter dated March 19, 2014 was mailed via United States Postal Service, Certified Mail, Return Receipt, to the Respondent, requesting he attend an informal conference to be held on April 2, 2014 at the Lafourche Parish Sanitarian Services Office at 11:00 A.M. to discuss the continued violations of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. and Chapter 7, §707.A.

A copy of same is attached hereto as **Exhibit E.**

WHEREAS, on April 2, 2014 a conference was held with Chasity Cheramie, Region 3 Sanitarian Regional Director, to discuss the correction of the violations of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. and Chapter 7, §707.A. The Respondent failed to attend the conference and on April 9, 2014 the unclaimed conference notice letter was returned to the Lafourche Parish Sanitarian Office.

A copy of same is attached hereto as **Exhibit F.**

WHEREAS, on April 22, 2014 a Notice of Violation letter dated April 16, 2014 was hand delivered, to the Respondent, requesting he attend an informal conference to be held on May 7, 2014 at the Lafourche Parish Sanitarian Services Office at 10:00 A.M. to discuss the continued violations of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. and Chapter 7, §707.A.

A copy of same is attached hereto as **Exhibit G,G1.**

WHEREAS, on May 7, 2014 a conference was held with Chasity Cheramie, Region 3 Sanitarian Regional Director, and Letecia Turley, Lafourche Parish Sanitarian Manager, to discuss the correction of the violations of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. and Chapter 7, §707.A. The Respondent, again, failed to attend the conference.

A copy of same is attached hereto as **Exhibit H.**

WHEREAS, on May 15, 2014 a Notice of Violation letter dated May 9, 2014, was hand delivered, to the Respondent, stating the continued violation of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. as follows:

“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.”

And Chapter 7, §707.A.:

“Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard”

The letter requested that the Respondent repair the approved sewage system by June 12, 2014.

A copy of same is attached hereto as **Exhibit I,I1.**

WHEREAS, on June 12, 2014 Tamerage Granier, Sanitarian, conducted an additional inspection of the sewage system at 2007 St. Bernard Street, Thibodaux, LA 70301. The inspection revealed that the aerator was not connected to the aerobic treatment unit and the wastewater collection lines were not connected to an aerobic treatment unit. These conditions are in violation of the Louisiana Administrative Code, Title 51 (Public Health Sanitary Code), Part XIII, Chapter 3, §305.A. as follows:

“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.”

And Chapter 7, §707.A.:

“Individual sewerage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance or a public health hazard.”

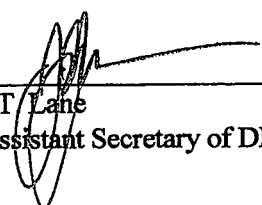
A copy of same is attached hereto as **Exhibit J...J3**.

NOW, therefore, in accordance with the authority vested in me as State Health Officer, and in concurrence with the Secretary, herein represented by the Assistant Secretary, in accordance with Delegation effective October 15, 2011, I hereby order that the Respondent, a person of full age of majority, correct all violations issued in the Notice of Violation Letters dated February 14, 2014 and May 9, 2014, within 20 days of receipt of this Compliance Order. Failure to correct the violations, or any future violations, may result in civil fines of up to \$100.00 per day per violation up to a maximum of \$10,000.00 in a calendar year and all other remedies allowed by law.

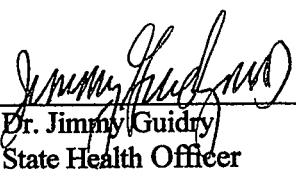
You are further advised that you have the right to appeal this Compliance Order by filing a **written request** for an adjudicatory hearing regarding any final decision made by the state health officer. If a hearing is requested, an application for an adjudicatory hearing must be received by the state health officer within (20) days after receipt of this Compliance Order. All documents and written requests for a hearing shall be submitted to the state health officer at: DHH-OPH-CEHS, P.O. BOX 4489, Baton Rouge, Louisiana 70821-4489.

Upon timely receipt of a written application requesting an adjudicatory hearing, the request will be submitted to the Division of Administrative Law and a hearing will be scheduled (pursuant to R.S. 49:991 et seq).

Kathy Kliebert
Secretary of DHH



J.T. Lane 7/14/14
Assistant Secretary of DHH Date



Dr. Jimmy Guidry 7/18/14
State Health Officer Date

FILED

AUG 21 2015

CLERK OF COURT