

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS
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FILED
/s/ Aimee Diez
BY CLERK OF COURT*
ASSUMPTION PARISH, LA
VERSUS
SANDRA JAMES DATE AUG 24 2015

SUIT NO. 175406
23rd JUDICIAL DISTRICT COURT
PARISH OF ASSUMPTION
STATE OF LOUISIANA

EX PARTE PETITION TO MAKE COMPLIANCE ORDER(S) EXECUTORY
PURSUANT TO L.A. 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 **Sandra James** (hereinafter "Defendant"), a person of full age of majority domiciled in Assumption Parish, Louisiana.

3.

Defendant is the owner of the residence and premises located at 104 College Point Lane, Plattenville, Louisiana 70393.

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 delivered via United States Postal Service (USPS), Certified Mail, Return Receipt Requested, to Defendant on February 4, 2015. A certified copy of said Compliance Order, which bears the DHH-assigned number OPH-2014-OW-018, together with all attachments thereto, is attached to this petition as **Exhibit DHH-A**. The return receipt associated with delivery of Compliance Order No. OPH-2014-OW-018 is attached hereto as **Exhibit DHH-B**.

5.

As more particularly described therein, Compliance Order No. OPH-2014-OW-018 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-018 was issued to Defendant because she failed, after numerous notices and other attempts by DHH to obtain voluntary compliance, to comply with Sanitary Code Part XIII, §707(A).

7.

As noted in the exhibits attached to Compliance Order No. OPH-2014-OW-018, the onsite aerobic sewage treatment system presently in use at Defendant's residence does not have a properly functioning aerator. Since the aerator is not working, the effluent that eventually discharges to Bayou Lafourche is not effectively treated to secondary standards, which is in violation of Sanitary Code Part XIII, §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.

8.

Despite being properly served with Compliance Order No. OPH-2014-OW-018, 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 second 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 delivered via USPS, Certified Mail, Return Receipt Requested to Defendant on June 26, 2015. A certified copy of the NOIP, dated June 10, 2015 is attached hereto as **Exhibit DHH-C**. The return receipt associated with 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 March 5, 2015, and served that same day upon Defendant via domiciliary service upon Devon Williams, a

person of suitable age and discretion who resided at 104 College Point Lane, Plattenville, Louisiana 70393 with Defendant on that date.

11.

DHH issued the NOIP because Defendant failed to notify DHH in writing, as required by the POIR, that she had complied with Compliance Order No. OPH-2014-OW-018.

12.

Despite being properly served with the NOIP, Defendant 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 the NOIP.

13.

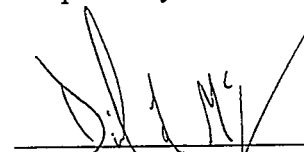
The Defendant has not complied with all of the actions required by Compliance Order No. OPH-2014-OW-018, nor paid the penalty assessed by the NOIP. DHH is thus entitled to an ex parte judgment making both Compliance Order No. OPH-2014-OW-018 and the NOIP a judgment of the district court and making the 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-018 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

DIVISION C

LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS
FILED
/s/ Aimee Diez
 BY CLERK OF COURT
 ASSUMPTION PARISH, LA
 SANDRA JAMES DATE **AUG 24 2015**

SUIT NO. 35406
 23rd JUDICIAL DISTRICT COURT
 PARISH OF ASSUMPTION
 STATE OF LOUISIANA

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.

 Jimmy Guidry, M.D.

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

David L. McCay

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

STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE

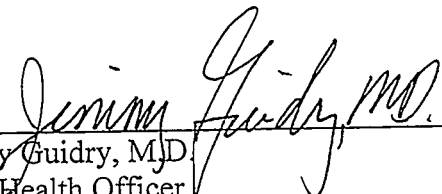
FILED
/s/ Aimee Diez
DY CLERK OF COURT
ASSUMPTION PARISH, LA
DATE **AUG 24 2015**

**CERTIFICATION OF
COMPLIANCE ORDER**

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

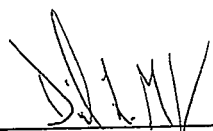
Jimmy Guidry, M.D., State Health Officer

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 25 sheets of paper, constitute a true, correct, and complete copy of the *Compliance Order* number **OPH-2014-OW-018** issued by said department, including any and 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

JIMMY GUIDRY, M.D.
STATE HEALTH OFFICER

*
FILED *
/s/ Aimee Diez
*
BY CLERK OF COURT
ASSUMPTION PARISH, LA
DATE **AUG 24 2015**
*

STATE OF LOUISIANA
DEPARTMENT OF HEALTH
& HOSPITALS
OFFICE OF PUBLIC HEALTH

VERSUS

SANDRA JAMES, OWNER
104 COLLEGE POINT LANE
PLATTENVILLE, LA 70393

**COMPLIANCE ORDER
OPH-2014-OW-018**

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 Assumption 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, Sandra James, hereafter referred to as the Respondent, a person of full age of majority, domiciled in Assumption Parish, Louisiana, owns the property at 104 College Point Lane, Plattenville, Louisiana 70393.

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

WHEREAS, on April 22, 2014, the Assumption Parish Sanitarian Services office received a complaint via email from Jesse Means, Department of Environmental Quality, regarding partially treated sewage, from an aerobic sewage treatment unit located at 104 College Point Lane, Plattenville, Louisiana 70393, possibly discharging into Bayou Lafourche.

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

WHEREAS, on April 22, 2014, Courtney Dickerson, Sanitarian, conducted an inspection of the aerobic sewage treatment unit located at 104 College Point Lane, Plattenville, Louisiana 70393. The inspection revealed that the aerator supplying oxygen to the aerobic treatment system was not working thereby allowing partially treated effluent to discharge from the treatment system. These conditions are in violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A., as follows:

“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 C**.

WHEREAS, on May 8, 2014, a Notice of Violation letter was mailed via United States Postal Service, Certified Mail, Return Receipt Requested, to the Respondent, stating the violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A., as follows:

“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 make the necessary repairs to the aerobic sewage treatment unit by June 10, 2014.

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

WHEREAS, on June 10, 2014, Tamerage Granier, Sanitarian, conducted a re-inspection of the aerobic sewage treatment unit located at 104 College Point Lane, Plattenville, Louisiana 70393. The re-inspection revealed that the aerator was still not working and therefore the system continued to discharge partially treated effluent. These conditions are in violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A., as follows:

“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 E**.

WHEREAS, on June 19, 2014, a second Notice of Violation letter was mailed via United States Postal Service, Certified Mail, Return Receipt Requested, stating the violation and requesting the Respondent attend a conference to be held on July 24, 2014 at the Assumption Parish Sanitarian Services Office at 11:00a.m. to discuss the continued violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A.

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

WHEREAS, on July 24, 2014, a conference was conducted with Chasity Cheramie, Region 3 Sanitarian Regional Director and Lauren Comeaux, Assumption Parish Sanitarian Manager, to discuss the correction of the violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A. The Respondent failed to attend the conference.

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

WHEREAS, on August 14, 2014, an additional Notice of Violation letter stating the violation was mailed via United States Postal Service, Certified Mail, Return Receipt Requested, again, requesting the Respondent attend a conference to be held on September 18, 2014, at the Assumption Parish Sanitarian Services Office at 3:00p.m., to discuss the continued violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A.

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

WHEREAS, on September 18, 2014, a conference was conducted with Chasity Cheramie, Region 3 Sanitarian Regional Director and Lauren Comeaux, Assumption Parish Sanitarian Manager, to discuss the correction of the violations of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A. The Respondent failed to attend this conference as well.

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

WHEREAS, on September 18, 2014, a final Notice of Violation letter was mailed via United States Postal Service, Certified Mail, Return Receipt Requested to the Respondent, stating the violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A., as follows:

“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 make the necessary repairs to the aerobic sewage treatment unit by October 21, 2014.

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

WHEREAS, on October 21, 2014, Lauren Comeaux, Sanitarian Parish Manager, conducted an inspection of the aerobic sewage treatment unit located at 104 College Point Lane, Plattenville,

Louisiana 70393. The inspection revealed that the aerator was still not working resulting in the discharge of partially treated effluent from the sewage treatment unit. These conditions are in violation of the Louisiana Administrative Code, Title 51, (Public Health Sanitary Code) Part XIII, Chapter 7, §707.A., as follows:

“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.”

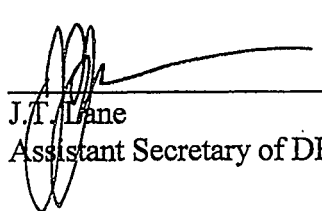
A copy of same is attached hereto as **Exhibit K**.

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 the violation issued in the Notice of Violation Letters, dated May 8, 2014, June 19, 2014, and August 14, 2014 within 20 days of receipt of this Compliance Order. Failure to correct the violation, or any future violations, will 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.

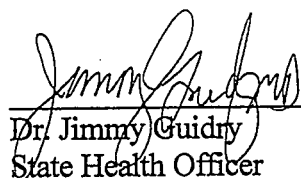
You are further advised that you have the right to appeal this Compliance Order by filing a **written request** for an adjudicatory hearing regarding any final decision made by the state health officer. If a hearing is requested, an application for an adjudicatory hearing must be received by the state 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 Date 1/27/15
Assistant Secretary of DHH



Dr. Jimmy Guidry Date 1/30/15
State Health Officer

LOUISIANA DEPARTMENT OF
HEALTH AND HOSPITALS

SUIT NO. 75406

23rd JUDICIAL DISTRICT COURT

VERSUS

FILED
/s/ Aimee Diez
CLERK OF COURT
ASSUMPTION PARISH, LA

PARISH OF ASSUMPTION

SANDRA JAMES

DATE AUG 24 2015

STATE OF LOUISIANA

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, **Sandra James** (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-018, issued by the Louisiana Department of Health and Hospitals to Sandra James, 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 June 10, 2015, issued by the Louisiana Department of Health and Hospitals to Sandra James, 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, Sandra James, in the amount of **Ten Thousand and 0/100 Dollars (\$10,000.00)**, together with legal interest thereon from date of judicial demand until paid, and for all costs.

SIGNED in chambers this 26th day of August, 2015, at
Gonzales, Louisiana.

Original Signed By
Katherine Tess Stromberg

JUDGE, 23rd Judicial District Court

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

Sandra James
104 College Point Lane
Plattenville, Louisiana 70393

A TRUE COPY
CLERK OF COURT'S OFFICE
MOOREVILLE, LA 70390
Doreen S. Sundry