

LOUISIANA DEPARTMENT OF HEALTH	*	SUIT NO. _____
	*	
VERSUS	*	EIGHTH JUDICIAL DISTRICT COURT
	*	
VILLAGE OF SIKES	*	PARISH OF WINN
	*	
	*	STATE OF LOUISIANA

**EX PARTE PETITION TO MAKE ADMINISTRATIVE 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** (“LDH”), Office of Public Health, through undersigned counsel, respectfully represents:

1.

Dr. Jimmy Guidry, State Health Officer for LDH, 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, and authority to issue Administrative Orders to public water systems pursuant to La. R.S. 40:5.9.

2.

Made defendant herein is the **Village of Sikes** (hereinafter “Defendant”), a political subdivision of the State of Louisiana, headquartered at 212 2nd Street, Sikes, LA 71473.

3.

Defendant owns and operates a municipal water system that serves residents and businesses in Sikes, Louisiana. Said water system constitutes a “public water system” as defined in La. R.S. 40:5.8.

4.

A Notice of Imposition of Penalties (“NIP”) issued pursuant to La. R.S. 40:4, 40:5, 40:5.9, 40:6, Sanitary Code Part I, §113, and Sanitary Code Part XII, §501 et seq., signed by Dr. Jimmy Guidry, State Health Officer, and Dr. M. Rony Francois then LDH\OPH Assistant Secretary, as authorized delegate for Alan Levine, then LDH Secretary, was delivered by certified mail, return receipt requested, to Defendant on or about July 30, 2009. A certified copy of the NIP, which bears the LDH-assigned number C-09-127-034-S1-DDBP-P-I is attached hereto as **Exhibit LDH-A**. The return receipt associated with the certified mailing of NIP No. C-09-127-034-S1-DDBP-P-I is attached hereto as **Exhibit LDH-B**.

5.

As noted therein, the issuance of the NIP was preceded by the delivery to Defendant of one or more Post Order Inspection Reports (“POIR”).

6.

LDH issued NIP No. C-09-127-034-S1-DDBP-P-I because Defendant failed to notify LDH in writing, as required by the POIR(s), that it had complied with Administrative Order No. C-06-127-034-S1-DDBP-AMO-I, previously issued to Defendant.

7.

Despite being properly served with NIP No. C-09-127-034-S1-DDBP-P-I, Defendant did not thereafter, within the twenty days allowed under Public Health Sanitary Code Part I, §113 or otherwise, submit to either LDH or the La. Division of Administrative Law any form of written request that might be construed as a request for an administrative appeal thereof.

8.

An Administrative Order issued pursuant to La. R.S. 40:4, 40:5, 40:5.9, 40:6, and Sanitary Code (LAC Title 51) Part I, §111, signed by Dr. Jimmy Guidry, State Health Officer, and John Thomas Lane, then LDH\OPH Assistant Secretary, as authorized delegate for Kathy H. Kliebert, then LDH Secretary, was delivered by certified mail, return receipt requested, to Defendant on or about November, 2014 (actual date of delivery not inserted on Return Receipt by recipient). A certified copy of said Administrative Order, which bears the LDH-assigned number C-14-127-034-DDBP-M-I, together with any attachments thereto, is attached to this petition as **Exhibit LDH-C**. The return receipt associated with the certified mailing of Administrative Order No. C-14-127-034-DDBP-M-I is attached hereto as **Exhibit LDH-D**.

9.

As more particularly described therein, Administrative Order No. C-14-127-034-DDBP-M-I was issued only after LDH personnel conducted various inspections and provided Defendant with all notice(s) required under Sanitary Code Part I.

10.

Despite being properly served with Administrative Order No. C-14-127-034-DDBP-M-I, Defendant did not thereafter, within the twenty days allowed under Sanitary Code Part I, §111 or otherwise, submit to either LDH or the La. Division of Administrative Law any form of written request that might be construed as a request for an administrative appeal of said Administrative

Order.

11.

A Notice of Imposition of Penalties (“NIP”) issued pursuant to La. R.S. 40:4, 40:5, 40:5.9, 40:6, Sanitary Code Part I, §113, and Sanitary Code Part XII, §501 *et seq.*, signed by Dr. Jimmy Guidry and Rebekah E. Gee, MD, MPH, was delivered by certified mail, return receipt requested, to Defendant on or about August 22, 2016. A certified copy of the NIP, which bears the LDH-assigned number C-14-127-034-DDBP-M-I-P-I is attached hereto as **Exhibit LDH-E**. The return receipt associated with the certified mailing of NIP No. C-14-127-034-DDBP-M-I-P-I is attached hereto as **Exhibit LDH-F**.

12.

As noted therein, the issuance of the NIP was preceded by the delivery to Defendant of one or more Post Order Inspection Reports (“POIR”).

13.

LDH issued NIP No. C-14-127-034-DDBP-M-I-P-I because Defendant failed to notify LDH in writing, as required by the POIR(s), that it had complied with Administrative Order No. C-14-127-034-DDBP-M-I.

14.

Despite being properly served with the NIP No. C-14-127-034-DDBP-M-I-P-I, Defendant did not thereafter, within the twenty days allowed under Public Health Sanitary Code Part I, §113 or otherwise, submit to either LDH or the La. Division of Administrative Law any form of written request that might be construed as a request for an administrative appeal thereof.

15.

The Defendant has not complied with all of the actions required by Administrative Order No. C-14-127-034-DDBP-M-I, nor paid the penalty assessed by NIP No. C-09-127-034-S1-DDBP-P-I or NIP No. C-14-127-034-DDBP-M-I-P-I. LDH is thus entitled to an *ex parte* judgment making Administrative Order No. C-14-127-034-DDBP-M-I, NIP No. C-09-127-034-S1-DDBP-P-I, and NIP No. C-14-127-034-DDBP-M-I-P-I a judgment of the district court and making the judgment executory, pursuant to La. R.S. 40:6(G).

16.

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 its agents and subdivisions, from court costs in any suit.

WHEREFORE, petitioner Dr. Jimmy Guidry, State Health Officer, Louisiana Department of Health (“LDH”), Office of Public Health, prays that Administrative Order No. C-14-127-034-DDBP-M-I, NIP No. C-09-127-034-S1-DDBP-P-I, and NIP No. C-14-127-034-DDBP-M-I-P-I 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
Bureau of Legal Services
P.O. Box 3836
Baton Rouge, Louisiana 70821-3836
Telephone: (225) 342-1123; fax 342-2232
david.mccay@la.gov

LOUISIANA DEPARTMENT OF
HEALTH

VERSUS

VILLAGE OF SIKES

* SUIT NO. _____
*
* EIGHTH JUDICIAL DISTRICT COURT
*
* PARISH OF WINN
*
* 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.

SWORN TO AND SUBSCRIBED before me, Notary Public, on this _____ day of _____, 2019.

NOTARY PUBLIC

LOUISIANA DEPARTMENT OF HEALTH	*	SUIT NO. _____
	*	
VERSUS	*	EIGHTH JUDICIAL DISTRICT COURT
	*	
	*	PARISH OF WINN
	*	
VILLAGE OF SIKES	*	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 against the defendant, **Village of Sikes** (whose tax identification number is unknown to plaintiff). Accordingly:

IT IS ORDERED, ADJUDGED, AND DECREED that Administrative Order No. C-14-127-034-DDBP-M-I, issued by the Louisiana Department of Health to the Village of Sikes, 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 Notice of Imposition of Penalties No. C-09-127-034-S1-DDBP-P-I and Notice of Imposition of Penalties No. C-14-127-034-DDBP-M-I-P-I, issued by the Louisiana Department of Health to the Village of Sikes, copies of which are attached hereto, are hereby made an executory judgment of this court and, accordingly, judgment is hereby rendered in favor of the plaintiff, Louisiana Department of Health, and against the defendant, the Village of Sikes, in the amount of **Eighty-Two Thousand Nine Hundred Seventy-Two and 51/100 Dollars (\$82,972.51)**, together with legal interest thereon from date of judicial demand until paid, and for all costs.

SIGNED in chambers this _____ day of _____, 2019, at _____, Louisiana.

JUDGE, Eighth Judicial District Court

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

Village of Sikes, through service on its mayor (or, in his absence, upon any employee of the town of suitable age and discretion, per La. Code Civil Procedure Art. 1265):

Honorable Kenneth Ray Womack
212 2nd Street
Sikes, LA 71473