

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 3rd JUDICIAL CIRCUIT
WAYNE COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

File No. 09-003870-CE

Plaintiff,

Hon. Maria L. Oxholm

v

09-003870-CE

JABER ENTERPRISES, INC.
a Michigan corporation, and
HAMAD JABER,

FILED IN MY OFFICE
WAYNE COUNTY CLERK
8/6/2014

CATHY M. GARRETT
/s/ Stacy Stallworth

Defendants.

Andrew T. Prins (P70157)
Assistant Attorney General
Environment, Natural Resources
and Agriculture Division
Attorney for the Plaintiff MDEQ
P.O. Box 30755
Lansing, Michigan 48909
(517) 373-7540

Stephen Linden (P16696)
Linden Boji, LLC
Attorney for Defendants
31870 Northwestern Highway
Farmington Hills, Michigan 48334
(248) 702-6800

SETTLEMENT AGREEMENT

At a session of said Court held in the
Wayne Circuit Court, State of Michigan,
on the 6th day of August, 2014.

PRESENT: Hon. Maria L. Oxholm, Circuit Court Judge

A. Plaintiff, the Michigan Department of Environmental Quality (MDEQ)
filed an Ex Parte Motion for Order to Show Cause (Motion to Show Cause), dated
April 16, 2014, and a Motion to Enforce Consent Judgment, dated June 5, 2014, in
the above-entitled action;

B. MDEQ requested in its Motion to Show Cause that this Court, the Wayne County Circuit Court, enter an order requiring Defendants Hamad Jaber and Jaber Enterprises, Inc. (collectively, the "Defendants") to show cause why they should not be held in civil contempt for failing to timely comply by March 25, 2012 with paragraph 4.1(a), (b), and (c) of the consent judgment entered by this Court on September 24, 2010;

C. MDEQ requested in its Motion to Enforce Consent Judgment that this Court enter a judgment in MDEQ's favor and against the Defendants, jointly and severally, for: 1) \$15,000.00 for the outstanding fifth and sixth installment payments due to MDEQ pursuant to paragraph 5.1 of the consent judgment, plus interest; and 2) the outstanding \$300,000.00 demanded by MDEQ in the February 5, 2013 demand for payment (February 5 Demand for Payment) pursuant to paragraphs 6.1 and 6.2 of the consent judgment, plus interest;

D. As a result of MDEQ's motions, and with the approval of this Court, the parties have agreed to enter this "Settlement Agreement" covering the issues set forth below;

THE PARTIES HEREBY STIPULATE:

1. Defendant Hamad Jaber is held in civil contempt of court, individually, for failing to timely comply with paragraph 4.1(a), (b), and (c) of the consent judgment by March 25, 2012; and as a person officially responsible for the conduct of Defendant Jaber Enterprises, Inc.'s affairs, as a corporate officer, who failed to

take actions within his powers to bring Jaber Enterprises, Inc. into timely compliance with paragraph 4.1(a), (b), and (c) of the consent judgment by March 25, 2012;

2. Defendant Jaber Enterprises, Inc. is held in civil contempt of court for failing to timely comply with paragraph 4.1(a), (b), and (c) of the consent judgment by March 25, 2012;

3. The Defendants are jointly and severally liable for \$500.00 in fines, payable to the Wayne County Circuit Court, that shall be paid within thirty days of the entry of this Settlement Agreement;

4. The Defendants are jointly and severally liable for \$5,000.00 in fines, payable to MDEQ, that shall be paid within thirty days of the entry of this Settlement Agreement and shall be applied to the outstanding \$300,000.00 that was demanded by MDEQ in the February 5 Demand for Payment;

5. The Defendants shall, within ninety days of the entry of this Settlement Agreement, submit to MDEQ a statutorily complete Final Assessment Report for the March 27, 1998 and May 2, 2006 releases of petroleum products from the underground storage tank system(s) located at 20541 Plymouth Road, Detroit, Michigan 48228, meeting the requirements of Section 21311a of Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.21311a, that includes a statutorily complete Corrective Action Plan developed under Section 21309a of Part 213 of the NREPA, MCL 324.21309a;

6. The Defendants shall, within sixty days of MDEQ's approval of the Final Assessment Report and Corrective Action Plan, submit to MDEQ documentation of the implementation of the Corrective Action Plan and compliance with the corrective action plan implementation schedule contained in the Final Assessment Report;

7. The Defendants shall comply with Part 213 of the NREPA, Part 201, Environmental Remediation, of the NREPA, 1994 PA 451, MCL 324.20101 *et seq.*, the administrative rules promulgated thereunder, and the applicable criteria, as they were written on September 24, 2010, the date the consent judgment was entered, regarding this action and this Settlement Agreement;

8. The Defendants shall submit a status report to MDEQ every six months until completion of corrective actions in accordance with Part 213 of the NREPA and submission of an approvable Closure Report under Section 21312a of Part 213, MCL 324.21312a, commencing six months after entry of this Settlement Agreement, and reporting on the Defendants' compliance with the Corrective Action Plan and their progress towards completing corrective actions and submittal of a Closure Report.

THE PARTIES FURTHER STIPULATE:

9. The Defendants shall pay MDEQ the outstanding fifth and sixth installment payments due pursuant to paragraph 5.1 of the consent judgment, \$15,000.00 in total, within fourteen days of the entry of this Settlement Agreement;

10. The Defendants shall submit to a creditor's examination within ninety days of the entry of this Settlement Agreement;

11. After the creditor's examination(s), or upon motion, MDEQ's request for entry of a judgment against the Defendants for the outstanding \$300,000.00 demanded in the February 5 Demand for Payment, that was made in its Motion to Enforce Consent Judgment, may be reexamined;

12. This Court retains jurisdiction over the parties and subject matter of this action to enforce this Settlement Agreement and the September 24, 2010 consent judgment;

13. The date of entry of this Settlement Agreement is the day that it is entered by this Court.

IT IS SO ORDERED.

/s/ Maria L. Oxholm

Hon. Maria L. Oxholm
Circuit Court Judge

APPROVED AS TO FORM AND CONTENT:

August 5, 2014

Dated

/s/ Andrew T. Prins

Andrew T. Prins (P70157)
Assistant Attorney General
Attorney for Plaintiff

August 5, 2014

Dated

/s/ Stephen Linden by ATP w/ permission

Stephen Linden (P16696)
Attorney for Defendants