

FILED

MAR 17 2015

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT
Sean Gallagher
Clerk of the Boards
Bay Area Air Quality
Management District

BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT

AIR POLLUTION CONTROL OFFICER of the
BAY AREA AIR QUALITY MANAGEMENT DISTRICT

DOCKET NO. 3668

STIPULATED ORDER FOR
ABATEMENT

Complainant,

vs.

ALL STAR SERVICE, INC., a California corporation;
KELLY ENGINEER, an individual; PERRIN
ENGINEER, an individual; and DOES 1 – 25, inclusive,

Respondents.

On January 26, 2015, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District"), Complainant in this matter, filed an accusation and request for order for abatement against ALL STAR SERVICE, INC., a California corporation; KELLY ENGINEER, an individual; PERRIN ENGINEER, an individual; and DOES 1 – 25, inclusive ("Respondents"). The APCO sought an order from this Hearing Board requiring Respondents to cease gasoline dispensing operations at the gasoline dispensing facility located at 1791 Pine Street, Concord, Contra Costa County, California ("Facility"), by no later than the end of the tenth day after the Hearing Board files an order for abatement in this action, until Respondents come into compliance with District Regulation 2, Rule 1, Section 302.

The Clerk of the Hearing Board assigned this matter Docket No. 3668 and set a hearing for March 5, 2015. The Clerk of the Hearing Board provided notice of the hearing on the Accusation in

1 accordance with the requirements of Health and Safety Code section 40823. The Hearing Board
2 conducted a hearing on the District's request for an Order for Abatement on March 5, 2015.

3 Respondent ENGINEER stated that he was appearing on behalf of all Respondents.

4 Susan Adams, Assistant Counsel, appeared on behalf of the Air Pollution Control Officer.

5 Following opening statements by the Parties, the Hearing Board Chair recessed the hearing.

6 Following a hearing recess, the APCO presented terms for a stipulated order for abatement in
7 this matter. The APCO presented the stipulations, to which Respondent Kelly Engineer stated on
8 the record his agreement to each of those terms on behalf of the Respondents. The Parties stipulated
9 that: (1) Respondent Perrin Engineer owns the real property located at 1791 Pine Street, Concord;
10 (2) All Star Service, Inc. owns the gasoline dispensing facility at 1791 Pine Street, Concord
11 ("Facility"); (3) Respondent Kelly Engineer is the president and sole shareholder of All Star
12 Service, Inc.; (4) Respondent Kelly Engineer operates the Facility; (5) All Star Service, Inc. and/or
13 the Engineer family have owned the Facility since 1989; (6) Respondents previously have been
14 issued a District permit to operate the Facility with a permit period of January 1 to January 1 of the
15 following year; (7) Respondents have not had a valid District permit to operate since January 1,
16 2013, but operated the Facility from January 1, 2013 to the present and continue to operate the
17 Facility; (8) Respondents are fully informed of their obligation to renew their permit to conduct
18 gasoline dispensing operations at the Facility; (9) Respondents received an invoice for permit
19 renewal for the January 1, 2013 - January 1, 2014, January 1, 2014 - January 1, 2015 permit periods;
20 and received an updated invoice for the January 1, 2013 - January 1, 2014, January 1, 2014 - January
21 1, 2015, and January 1, 2015 - January 1, 2016 permit renewals; and (10) Respondents agreed to pay
22 on March 5, 2015 by payment of Nine Thousand Eight Hundred Two Dollars (\$9,802.00) for permit
23 to operate fees for the January 1, 2013 - January 1, 2014, January 1, 2014 - January 1, 2015, and
24 January 1, 2015 - January 1, 2016 permit years.

25 During a hearing recess, Respondent Engineer paid the agreed-upon permit fees in full
26 (\$9,802.00), in accordance with the terms of the stipulations. Following the recess, the Complainant
27 stated on the record that Respondents had paid the agreed-upon permit to operate fees in full.

28 No members of the public attended the public hearing. The Hearing Board received no public

1 comments.

2 There being no objections or abstentions to the stipulated terms of a proposed stipulated order for
3 abatement by Hearing Board members, the Hearing Board Chair directed the Complainant to prepare a
4 proposed stipulated order for abatement with the terms agreed upon by the Parties and described
5 hereinabove.

6 **WRITTEN EXPLANATION OF ACTION**

7 Because the Parties have stipulated to the terms that are contained in this Stipulated Order for
8 Abatement to resolve this matter (“Order for Abatement”), the Hearing Board is not required to make
9 any factual findings to support the Order for Abatement, but Health and Safety Code Section 42451(b)
10 requires that the Hearing Board include a written explanation of its action in this Order for Abatement.
11 To that end, the Hearing Board explains its action as follows:

12 Respondents affirm that they own and operate the gasoline dispensing facility at 1791 Pine
13 Street, Concord, Contra Costa County, California and have done so since 1989. Respondents admit
14 they have been in continuing violation of District Regulation 2, Rule 1, Section 302 by operating the
15 Facility since January 1, 2013 without a valid, current annual District permit to operate. The Parties
16 agreed that to address Respondents’ violation of District Regulation 2, Rule 1, Section 302, on March
17 5, 2015, Respondents shall pay Nine Thousand Eight Hundred Two Dollars (\$9,802.00) to cover the
18 permit to operate fees for the January 1, 2013 - January 1, 2014, January 1, 2014 - January 1, 2015,
19 and January 1, 2015 - January 1, 2016 permit years.

20 Respondents paid \$9,802.00 before the conclusion of the hearing.

21 The Hearing Board believes that entry of this Stipulated Order for Abatement is appropriate
22 under the circumstances.

23 **Order for Abatement**

24 **Cause being found therefore, pursuant to Sections 42451(b) and 42452 of the California**
25 **Health and Safety Code, THE HEARING BOARD of the BAY AREA AIR QUALITY**
26 **MANAGEMENT DISTRICT hereby ORDERS:**

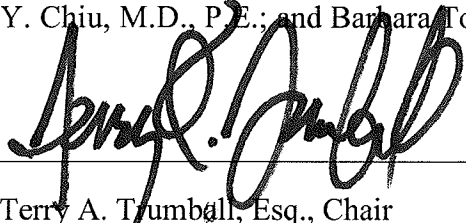
27 1. That the APCO’s and Respondent’s request for a Stipulated Order for Abatement shall be
28 and hereby is GRANTED as follows:

1 Respondents PERRIN ENGINEER, ALL STAR SERVICE, INC., AND KELLY ENGINEER
2 and Respondents' agents, successors and assigns are hereby ordered to pay on March 5, 2015 the
3 amount of Nine Thousand Eight Hundred Two Dollars (\$9,802.00) for permit to operate fees
4 for the January 1, 2013 - January 1, 2014, January 1, 2014 - January 1, 2015, and January 1,
5 2015 - January 1, 2016 permit years for gasoline dispensing operations at a gasoline dispensing
6 facility, 1791 Pine Street, Concord, Contra Costa County, California ("Facility") in order to have
7 the Facility come into compliance with District Regulation 2, Rule 1, Section 302.

8 2. That Respondents satisfied the terms of the Order on March 5, 2015 at the hearing.

9 3. This Order is satisfied, and this matter is closed.

10
11 Members: Terry A. Trumbull, Esq.; Valerie J. Armento, Esq.; Gilbert G. Bendix, P.E.; Peter
12 Y. Chiu, M.D., P.E.; and Barbara Toole O'Neil, Ch.E, Q.E.P.

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14 
15 Terry A. Trumbull, Esq., Chair

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15 Date

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BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

AIR POLLUTION CONTROL OFFICER of)
the BAY AREA AIR QUALITY)
MANAGEMENT DISTRICT,)

DOCKET NO. 3668

Complainant,)

CERTIFICATE OF SERVICE

vs.)

ALL STAR SERVICE, INC., a California)
Corporation; KELLY ENGINEER, an)
individual; PERRIN ENGINEER, an)
individual; and DOES 1 through 25,)
inclusive,)

Respondents.)
_____)

STATE OF CALIFORNIA)
City and County of San Francisco)

ss.

I, Sean Gallagher, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to
the above entitled action; that I served a true copy of the attached Stipulated Order for Abatement
on:

All Star Service, Inc.
c/o Bruce Whitesen, Agent for Service of Process
2121 North California Boulevard, Suite 290
Walnut Creek, CA 94596

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AND

**All Star Service, Inc.
1791 Pine Street
Concord, CA 94520-3455**

AND

**Kelly Engineer
1791 Pine Street
Concord, CA 94520-3455**

AND

**Perrin Engineer
362 Riviera Drive
Union City, CA 94587-3725**

by depositing same in the United States certified mail, return receipt requested, on March 24, 2015; and on

**Susan Adams
Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street, 7th Floor
San Francisco, CA 94109**

by hand-delivery deposit of same in the in-box of the District Counsel's office, on March 24, 2015.

DATED: March 24, 2015



Sean Gallagher
Clerk of the Boards