

FILED

MAY 11 2021

HEARING BOARD  
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. 3729

CONDITIONAL ORDER FOR  
ABATEMENT

Complainant,

vs.

VSPETROUSA, INC.; a California corporation; SHAN  
SUNDAR, an individual; and DOES 1 through 25,  
inclusive,

Respondents.

This matter concerns the Complainant’s request for an order for abatement to require that Respondents cease their alleged violation of District Regulation 2, Rule 1 at their facility located in Oakland, Alameda County, California, District Facility Identification No. 111672.

**PROCEDURAL BACKGROUND AND HEARING**

Procedural Background: Complainant’s Accusation

Complainant, the District’s Air Pollution Control Officer, initiated this matter by filing an accusation against Respondents on March 10, 2021 (“Accusation”), alleging that since October 2015, they have been operating a gasoline dispensing operation at their facility known as Golden Gas, located at 6600 Foothill Blvd, Oakland, Alameda County (“Facility”), without a current and valid District permit to operate authorizing them to do so. The Clerk of the Hearing Board assigned this matter Docket No. 3729 and set a public hearing for April 20, 2021. The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance with the requirements of Health

1 and Safety Code section 40823 to the Complainant and to the Respondents at the addresses provided by  
2 the Complainant.

3 Public Hearing, April 20, 2021

4 The Hearing Board conducted a public hearing on April 20, 2021. Madeline Stone,  
5 Assistant Counsel; and Todd Gonsalves, Assistant Counsel, appeared on behalf of the  
6 Complainant. Shan Sundar appeared on behalf of Respondents.

7 The District may serve its Accusation on a person by certified mail and by a means of service  
8 authorized in civil actions. *Hearing Board Rule 4.4c*. The District may serve that person at the  
9 address listed in the District’s records as that facility’s owner and address. *District Regulation 1-412*.  
10 Ms. Stone described the District’s service of the Accusation upon the Respondents. The District  
11 served the Accusation on Respondent Vspetrousa, Inc., a California corporation (Corporation) (*see*  
12 District’s Request for Official Notice in Support of Accusation and Request for Order of Abatement  
13 (Request for Official Notice), Attachments 1 through 3), by certified mail on the Corporation’s agent  
14 for service of process and at the Corporation’s Facility address, which is the address listed in the  
15 District’s record. The District served the Accusation on Respondent Shan Sundar by certified mail at  
16 the Facility address and at the address listed with the Secretary of State (*see* Request for Official  
17 Notice, Attachment 2).

18 Because Respondents did not file a notice of defense, Respondents’ express admissions may be  
19 used as evidence without any notice thereof, and the Hearing Board may upon its own motion decide  
20 the matter or dismiss the action at the public hearing. *Hearing Board Rule 6.9(b)*. Ms. Stone stated  
21 that further, because of their having not filed a notice of defense, Respondents waived their right to a  
22 hearing pursuant to California Government Code section 11506(c). Chair Armento proceeded to  
23 conduct the hearing as scheduled.

24 Respondent Sundar explained to the Hearing Board that he understood his permit payments  
25 were overdue and said that his problem with making payment was the late and delinquent fees  
26 associated with the permit, which the District had refused to waive.

27 The Hearing Board “deemed approved” Complainant’s Request for Official Notice – filed on  
28 April 12, 2021 – and took notice of the facts and documents included in the Request for Official

1 Notice in support of its Accusation and its request for an order for abatement, in accordance with  
2 Hearing Board Rule 9.3. The Hearing Board took official notice of 22 facts and documents pertaining  
3 to the District's legal authority to pursue this matter and obtain an abatement order, the legal status of  
4 Respondent Vspetrousa, and the air contaminant emissions from gasoline dispensing operations.

5 Duncan Campbell, a District permit engineer; Miguel Zepeda, a District inspector; and  
6 Dennis Quatch, a District inspector, testified on behalf of the District.

7 Mr. Campbell testified that gasoline dispensing operations are a source of volatile organic  
8 compounds and are subject to the District permitting requirements pursuant to District  
9 Regulations 2-1-302, 2-1-401.2. He testified that beginning in 2005, the Facility, Site No. 111672  
10 (previously Site No. C9693), had a District permit to operate (Permit) (*see* Exhibit 2), but that the  
11 Permit expired on December 1, 2014. He testified further that the Facility's Permit period is  
12 December 1 to December 1 of the following year (*see* Exhibit 2). He testified further that  
13 Respondent Vspetrousa is listed in the District's records as the Facility owner, and Respondent  
14 Shan Sundar is listed as Vspetrousa's President and as the Facility contact for the owner and  
15 operator and for billing purposes, and that the District has provided Respondents with Permit  
16 Renewal Invoices multiple times (*see* Exhibits 3, 4 and 5). Mr. Campbell testified that a person is  
17 not authorized to operate the equipment or sources covered by a permit if the Permit has expired  
18 or lapsed (*see* Exhibits 3, 4 and 5).

19 Miguel Zepeda testified that he has conducted three inspections of the Facility, first on  
20 July 17, 2018, then on November 28, 2018, and finally on April 17, 2019; that he observed the  
21 Facility operating on those days and visits; that he spoke with Respondent Sundar by phone and  
22 discussed the expired Permit. Mr. Zepeda further testified that on November 28, 2018, he issued  
23 Notice of Violation (NOV) No. A58438 to the Facility for operating in violation of District  
24 Regulation 2-1-302 and that Mr. Abdul Ghaf, Gas Station Clerk, signed the NOV (*see* Exhibit 6).  
25 Mr. Zepeda also testified that he put Respondent Sundar in touch with Mr. Campbell, the permit  
26 engineer for the Facility.

27 Dennis Quach testified that he has conducted two inspections of the Facility, first on March  
28 22, 2021 and then on April 12, 2021; and that he observed the Facility operating on those days and



1 valid permit to operate the Facility, as of twenty calendar days from the date the Hearing Board causes  
2 its findings and decision in this action to be filed, pursuant to Hearing Board Rule 10.3 and Health and  
3 Safety Code section 40863 (the “Effective Date”).

4 **CONDITIONAL ORDER FOR ABATEMENT**

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

- 8 1. That within twenty calendar days after the Effective Date, Vspetrousa, Inc., and Shan Sundar, and  
9 their agents, employees, successors and assigns (collectively, the “Respondents”) shall cease  
10 violation of District Regulation 2, Rule 1 at 6600 Foothill Blvd., Oakland, Alameda County,  
11 California, listed in the District’s records as Facility Identification Number 111672 (previously  
12 C9693) (Facility), by ceasing gasoline dispensing operations, unless and until they obtain a District  
13 permit for the Facility’s said operations that is current and valid through December 1, 2021; and  
14 2. Respondents shall submit to the Hearing Board either (a) a copy of a current and valid District  
15 permit to operate the Facility, or (b) Respondents’ notarized written affirmation that they have  
16 ceased conducting gasoline dispensing operations at the Facility and that they shall not  
17 recommence such operations until they have met all applicable requirements to obtain or  
18 reinstate a current and valid District permit to operate, by no later than twenty calendar days  
19 from the Effective Date, with a copy of such documentation to Brian C. Bunger, District  
20 Counsel, on behalf of Complainant, the Air Pollution Control Officer; and  
21 3. That this Hearing Board shall retain jurisdiction over the order for abatement for one year from  
22 April 20, 2021, the date of the public hearing in this matter, during which period the parties may  
23 apply to modify or terminate this Order in accordance with the Rules of the Hearing Board.

24 **Moved By:** Peter Y. Chiu, M.D., P.E.

25 **Seconded By:** Danny Cullenward, Ph.D, Esq.

26 **Ayes:** Valerie J. Armento, Esq., Chair; Peter Y. Chiu, M.D., P.E.; Catherine Fortney, P.E.;  
27 Barbara Toole O’Neil, Ch.E., Q.E.P.; and Danny Cullenward, Ph.D., Esq.

28 **Noes:** None.

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Valerie J. Armento

5/11/2021

Valerie J. Armento, Esq., Chair

Date

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, )

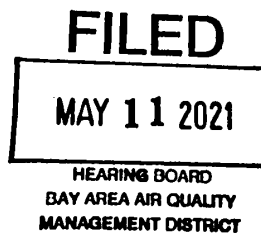
Docket No.: 3729

CERTIFICATE OF SERVICE

Complainant,

vs.

VSPETROUSA, INC., a California )  
corporation; SHAN SUNDAR, an )  
Individual; and DOES 1 – 25, inclusive, )  
Respondent. )



STATE OF CALIFORNIA )  
 )  
City and County of San Francisco ) ss.

I, Marcy Hiratzka, 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 Conditional Order for Abatement on:

Shan Sundar, President Vspetrousa, Inc. 6600 Foothill Blvd. Oakland, CA 94605-2019 <a href="mailto:vspetrousa@gmail.com">vspetrousa@gmail.com</a>	Shan Sundar, Agent for Service of Process Vspetrousa, Inc. 4301 San Leandro St. Oakland, CA 94601
Shan Sundar, Agent for Service of Process Vspetrousa, Inc. 6600 Foothill Blvd. Oakland, CA 94605-2019	Shan Sundar, President Vspetrousa, Inc. P.O. Box 43 Livermore, CA 94551
Shan Sundar, President Vspetrousa, Inc. 4301 San Leandro St. Oakland, CA 94601	Shan Sundar, Agent for Service of Process Vspetrousa, Inc. P.O. Box 43 Livermore, CA 94551

1 by depositing same via email and in the United States certified mail, return receipt requested,  
2 on May 11, 2021; and on:

3 **Madeline Stone, Esq.**  
4 **Bay Area Air Quality Management District**  
5 **375 Beale Street, 6<sup>th</sup> Floor**  
6 **San Francisco, California 94105**  
7 [mstone@baaqmd.gov](mailto:mstone@baaqmd.gov)

8 via email on May 11, 2021

9 DATED: May 11, 2021



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10 Marcy Hiratzka,  
11 Clerk of the Boards