

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**BONBAY, INC.**

**AI # 212731**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

\* **Settlement Tracking No.**  
\* **SA-AE-24-0050**  
\*  
\* **Enforcement Tracking No.**  
\* **AE-PP-19-00583**  
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**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between Bonbay, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent is a corporation that owned and/or operated an abandoned motel located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

**II**

On November 7, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-19-00583 (Exhibit 1).

**III**

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

**IV**

Nonetheless, Respondent, without making any admission of liability under state or federal

statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTEEN THOUSAND AND NO/100 DOLLARS (\$18,000.00), of which Two Thousand Three Hundred Sixty-Nine and 57/100 Dollars (\$2,369.57) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

#### V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VI

This Settlement Agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

#### VII

This Settlement Agreement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for

issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act.

## VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

## IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## X

Payment is to be made over a period of thirty-six (36) consecutive months, in the amount of \$500.00 per month. The initial payment of \$500.00 is to be made within thirty (30) days from notice of the Secretary's signature. The remaining payments are due on the 15<sup>th</sup> of each month. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

**BONBAY, INC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

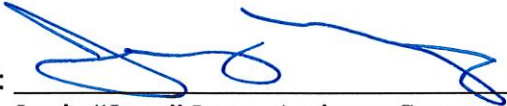
**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Aurelia S. Giacometto, Secretary


BY: \_\_\_\_\_  
Jerrie "Jerry" Lang, Assistant Secretary  
Office of Environmental Compliance

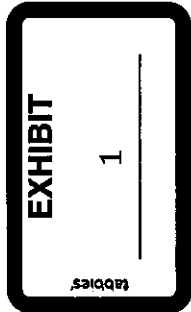
THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

Approved:   
\_\_\_\_\_  
Jerrie "Jerry" Lang, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		<b>NOTICE OF POTENTIAL PENALTY</b>		
Enforcement Tracking No.	AE-PP-19-00583	Certified Mail No.	7018 2290 0000 5826 1548	
Agency Interest (AI) No.	212731	Contact Name	Dr. Jacqueline Prudente	
Alternate AI No.	N/A	Contact Phone No.	(225) 219-3347	
Respondent:	BOMBAY, INC.	Facility Name:	Friendly Inn	
	c/o Fong Chung Huang	Physical Location:	4861 Chef Menteur Highway	
	15110 Cedar Ridge Dr.	City, State, Zip:	New Orleans, LA 70126	
	Houston, TX 77082-014	Parish:	Orleans	
This NOTICE OF POTENTIAL PENALTY is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and 30:2050.3(B).				
<b>FINDINGS OF FACT</b>				
An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.				
I.	The Respondent owned and/or operated Friendly Inn, an abandoned motel located at 4861 Chef Menteur Highway in New Orleans, Orleans Parish, Louisiana.			
	Date of Violation	Description of Violation		
II.	Inspection(s) 6/25/2018 5/16/2019 File Review 7/22/2019	The Respondent failed to provide the Department with a Notification of Demolition and Renovation Form and Asbestos Contaminated Debris Activity Form [AAC-2(a)] prior to conducting demolition activities. During the June 26, 2018 inspection, the inspector noted that a portion of the abandoned motel had been demolished and no demolition equipment was present onsite. The Respondent's failure to provide the Department with an AAC-2(a) prior to beginning of demolition is a violation of LAC 33:III.5151.F.2.a and La. R.S. 30:2057(A)(2). On September 13, 2018, September 18, 2018, and September 24, 2018, the Respondent submitted AAC-2(a) forms for the removal and disposal of asbestos-containing debris (ACD) and for the abatement of remaining buildings prior to demolition.		
III.	Inspection(s) 6/25/2018 5/16/2019 File Review 7/22/2019	Prior to the commencement of a demolition or renovation activity, the Respondent must either assume regulated asbestos-containing material (RACM) is present or have an accredited asbestos inspector thoroughly inspect the affected facility for the presence of asbestos. According to the inspection report, an asbestos inspection was not conducted prior to the demolition. The Respondent's failure to thoroughly inspect the affected facility or part of the facility where activity will occur for the presence of asbestos is a violation of LAC 33:III.5151.F.1 and La. R.S. 30:2057(A)(2). On June 26, 2018, an asbestos inspection of the building which had not yet been demolished was conducted by Haltran Environmental Services, a certified asbestos contractor.		
IV.	Inspection(s) 6/25/2018 5/16/2019 File Review 7/22/2019	The Respondent failed to remove RACM prior to the demolition of the building. Results of the sample analyses performed by EMLab P&K on June 27, 2018 and June 28, 2018 for the tile, popcorn ceiling, and roof tar present in the building that had not been demolished were positive for asbestos. The same materials were present in the building that had already been demolished and were observed in the debris onsite. The Respondent's failure to remove RACM prior to the demolition of the building is a violation of LAC 33:III.5151.F.3.a and La. R.S. 30:2057(A)(2). The remaining building was abated prior to demolition.		
V.	Inspection(s) 6/25/2018 5/16/2019 File Review 7/22/2019	The Respondent failed to store ACM in a labeled, secured area away from the public, where it will not be subject to disturbance or tampering until it can be transported to a recognized asbestos landfill (RAL). During the June 25, 2018 inspection, a portion of the motel had been demolished, and large ACD piles were on the ground out in the open. The large ACD piles were located near Chef Menteur Highway, and there were commercial establishments located directly on the east and west sides of the site. The facility was not secured from entry by the public. This is a violation of LAC 33:III.5151.J.1.a.vi and La. R.S. 30:2057(A)(2). The site visit on May 16, 2019 revealed the remaining building was abated of ACM, and ACD was removed and disposed of at an RAL.		
<b>NOTICE OF POTENTIAL PENALTY</b>				
I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.			
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Dr. Jacqueline Prudente at (225) 219-3347 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.			



- III. The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
- IV. For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
- V. To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

**CONTACTS AND SUBMITTAL OF INFORMATION**

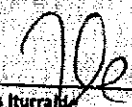
<b>Enforcement Division:</b> Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente	<b>Physical Address (if hand delivered):</b>  Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
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**HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY**

To expedite closure of the NOTICE OF POTENTIAL PENALTY, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.


- The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at (225) 219-3347 or [jacqueline.prudente@la.gov](mailto:jacqueline.prudente@la.gov).

  
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 Lourdes Iturralde  
 Assistant Secretary  
 Office of Environmental Compliance

Date: 11-17-19

Attachment  
 - Request to Settle

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)		
Enforcement Tracking No.	AE-PP-19-00583	Contact Name	Dr. Jacqueline Prudente	
Agency Interest (AI) No.	212731	Contact Phone No.	(225) 219-3347	
Alternate ID No.	N/A			
Respondent:	BOMBAY, INC.	Facility Name:	Friendly Inn	
	c/o Feng Chung Huang	Physical Location:	4861 Chef Menteur Highway	
	Agent for Service of Process			
	15110 Cedar Ridge Dr. Houston, TX 77082-4014	Cty, State, Zip:	New Orleans, LA 70126	
		Parish:	Orleans	
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
(check the applicable option)				
<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart 1.Chapter 7.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00583), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.			
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00583), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional) = \$ _____</li> </ul> • <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.			
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-19-00583) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
<b>CERTIFICATION STATEMENT</b>				
I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.				
Respondent's Signature		Respondent's Printed Name		Respondent's Title
Respondent's Physical Address		Respondent's Phone #		Date
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Dr. Jacqueline Prudente				

If you have questions or need more information, you may contact Dr. Jacqueline Prudente at Dr. Jacqueline Prudente or jacqueline.prudente@la.gov.