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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

In the Matter of:

JOSEPH OH

and

HOLLY INVESTMENT, LLC

Respondents.

Docket No. RCRA-10-2011-0164

**AFFIDAVIT OF GREGORY S. TIFT IN
SUPPORT OF MOTION TO SET ASIDE
DEFAULT ORDER OF AUGUST 3, 2012**

State of Washington)

) ss.

County of Pierce)

The undersigned being first duly sworn on oath states:

1. I was asked by Joseph Oh to assist with the EPA Complaint upon receipt in September of 2011.
2. I notified the management team of Helen Ho and her husband Chan Ho of the various problems. Ms. Ho stated she was aware and that the problems would be resolved, I advised her I would help the best that I could. Over the next several months we contacted NW Tank and Environmental Services Inc. and arranged for the following.

- 1 3. Helen Ho and Chan Ho requested they conduct a cathodic protection survey to comply
2 with the Department of Ecology UST regulations (**Exhibit B**). The work order was
3 completed however the management team never paid NW Tank and Environmental
4 Services Inc. so they would not provide the results.
- 5 4. The results of the cathodic protection survey from NW Tank and Environmental
6 Services Inc. would have brought much of the subject property into compliance. This
7 evidence was never presented and would have changed the outcome of the case.
- 8 5. The management team continued to hide these problems from Mr. Oh and myself.
- 9 6. I was never able to have the management team pay the invoice to NW Tank and
10 Environmental Services Inc.
- 11 7. Upon Mr. Oh's bankruptcy filing I distanced myself from the EPA case as I thought the
12 bankruptcy would slow the process and Mr. Oh's attorney Dallas Jolley was now
13 handling the EPA case before the bankruptcy court. I was wrong in thinking the
14 bankruptcy would slow the process and ultimately a default order was issued.
- 15 8. The evidence presented demonstrates much of this case was neglected as
16 communication was passed from party to party. I have reviewed Joseph Oh's finances
17 and believe he would qualify as a respondent who has no ability to pay. The corporation
18 also would be better served to use its limited cash flow for corrections in lieu of
19 penalties.
- 20 9. The compliance items requested by the EPA I believe are complete in part since the
21 work order was performed on October 17, 2011. This demonstrates the respondent took
22 action to correct the deficiencies described by the EPA complaint and also demonstrates
23 excusable neglect as to why exonerating evidence was not presented.
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1 I have personal knowledge of the facts stated in the foregoing. I certify and declare
2 under the laws of the state of Washington that the foregoing testimony is true and
3 correct.
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5 Submitted this 15th day of August 2012
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8 Gregory S. Tift
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