

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

<b>In the Matter of:</b>	:	
	:	
<b>3951 Roosevelt Blvd. Realty Corporation</b>	:	<b>Docket No. RCRA-03-2018-0148</b>
<b>439 S. Governor Prince Blvd.</b>	:	
<b>Essington, PA 19029</b>	:	<b>U.S. EPA-REGION 3-RHC</b>
	:	<b>FILED-19SEP2018AM8:16</b>
<b>and</b>	:	
	:	
<b>Liberty Tradeplus, Inc.</b>	:	<b>Proceeding Under Section 9006 of the</b>
<b>3951 Roosevelt Boulevard</b>	:	<b>Resource Conservation and Recovery</b>
<b>Philadelphia, PA 19124,</b>	:	<b>Act, as amended, 42 U.S.C. § 6991e.</b>
	:	
<b>Respondents.</b>	:	

**CONSENT AGREEMENT**

**I. PRELIMINARY STATEMENT**

This Consent Agreement ("CA") is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant") and by Respondent 3951 Roosevelt Blvd. Realty Corporation and Respondent Liberty Tradeplus, Inc., collectively referred to as "Respondents," pursuant to Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6991e, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("*Consolidated Rules of Practice*"), 40 C.F.R. Part 22, including, specifically 40 C.F.R. §§ 22.13(b) and .18(b)(2) & (3).

This CA and the associated Final Order (collectively "CAFO"), resolve violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and the Commonwealth of Pennsylvania's federally authorized underground storage tank program by Respondents in connection with two (2) underground storage tanks located at a facility known as the F-Street Sunoco Station, located at 3951 Roosevelt Boulevard, Philadelphia, PA 19029, that are owned and operated, respectively, by them.

Pursuant to Section 9004 of RCRA, 42 U.S.C. § 6991c, and 40 C.F.R. Part 281, Subpart A, the Commonwealth of Pennsylvania was granted final authorization to administer a state underground storage tank management program ("Pennsylvania Authorized UST Management Program") *in lieu* of the Federal underground storage tank management program established under Subtitle I of RCRA, 42 U.S.C. §§ 6991-6991m. This authorization was effective on September 11, 2003. *See 68 Fed. Reg.* 53520 (September 11, 2003) and 40 C.F.R. § 282.88. Through this final authorization, the provisions of the Pennsylvania Authorized UST Management Program became requirements of RCRA Subtitle I and are, accordingly, enforceable by EPA pursuant to Section 9006 of RCRA, 42 U.S.C. § 6991e. As of the date of EPA's authorization of Pennsylvania's Authorized UST Management Program, these provisions were codified in Chapter 245 of Title 25 of the Pennsylvania Code, and will be cited herein as 25 PA Code §§ 245.1 *et seq.*

RCRA Section 9006(a)-(e), 42 U.S.C. § 6991e(a)-(e), authorizes the U. S. Environmental Protection Agency (“EPA” or the “Agency”) to take an enforcement action whenever it is determined that a person is in violation of any requirement of RCRA Subtitle I, EPA’s regulations thereunder, or any regulation of a federally-authorized state UST program. Under RCRA Section 9006(d), 42 U.S.C. § 6991e(d), EPA may assess a civil penalty against any person who, among other things, violates any requirement of an applicable federal or federally-authorized state UST program.

## **II. GENERAL PROVISIONS**

1. For purposes of this proceeding only, the Respondents admit the jurisdictional allegations set forth in this CAFO.
2. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in this CAFO, except as provided in Paragraph 1, immediately above.
3. Respondents agree not to contest EPA’s jurisdiction with respect to the execution of this CA, the issuance of the attached Final Order, or the enforcement of the CAFO.
4. For the purposes of this proceeding only, Respondents hereby expressly waive their right to a hearing on any issue of law or fact set forth in this CA and any right to appeal the accompanying Final Order.
5. Respondents consent to the issuance of this CAFO and agree to comply with its terms and conditions.
6. Respondents shall bear their own costs and attorney’s fees.

## **III. EPA’S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7. In accordance with the *Consolidated Rules of Practice* at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:
  - a. Respondent 3951 Roosevelt Blvd. Realty Corporation is: (i) a Pennsylvania corporation and real estate management company with a business address of 439 S. Governor Prince Blvd., Essington, PA 19029; and (ii) a “person” as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5) and 25 PA Code § 245.1.
  - b. Respondent Liberty Tradeplus, Inc., is: (i) a Pennsylvania corporation and gasoline service station/convenience store operator with a business address of 3951 Roosevelt Boulevard, Philadelphia, PA 19124; and, (ii) a “person” as defined by Section 9001(5) of RCRA, 42 U.S.C. § 6991(5) and 25 PA Code §



245.1.

- c. At all times relevant to the violations set forth in this CA, Respondent 3951 Roosevelt Blvd. Realty Corporation has been an “owner,” and Respondent Liberty Tradeplus, Inc., has been an “operator,” of each of the following “underground storage tanks” (USTs), as these terms are defined in Section 9001(3) and (4) of RCRA, 42 U.S.C. § 6991(3) and (4), and 25 PA Code § 245.1, and associated “underground storage tank systems” (UST systems), as that term is defined in 25 PA Code § 245.1, located at 3951 Roosevelt Boulevard, Philadelphia, PA 19124 (hereinafter, the “F-Street Sunoco Facility” or the “Facility”):

UST No.	Material Stored	Capacity (gal.)	Installation Date	Tank Construction Material	Piping Construction Material
1	Premium gasoline	10,000	July 1983	Single-Walled Fiberglass Reinforced Plastic (SWFRP)	Double-Walled Fiberglass Reinforced Plastic (DWFRP)
2	Regular gasoline (master)	8,000	July 1983	SWFRP	DWFRP
3	Regular gasoline (drone)	6,000	July 1983	SWFRP	DWFRP

8. At all times herein relevant, each of the three USTs owned and operated, respectively, by the Respondents at the F-Street Sunoco Facility, as identified in the Paragraph 7.c. Chart, immediately above:
- a. was an “underground storage tank” as defined in 25 PA Code § 245.1 and RCRA Section 9001(10), 42 U.S.C. § 6991(10);
- b. routinely contained petroleum (*i.e.*, gasoline), a “regulated substance” as defined by 25 PA Code § 245.1 and RCRA Section 9001(7)(B), 42 U.S.C. § 6991(7)(B); and
- c. was, together with its associated piping, ancillary equipment and containment system, an “existing underground storage tank system]” and a “petroleum system,” as defined in 25 PA Code § 245.1., subject to the 25 PA Code § 245.442(1) tank release detection requirements for new underground storage tank systems.
9. On September 28, 2017, a duly authorized representative of EPA (the “EPA Inspector”) conducted a compliance evaluation inspection (“CEI”) of the F-Street Sunoco Facility.
10. On September 28, 2017, during the course of the CEI, the F-Street Sunoco Facility was equipped with an Veeder Root TLS 350 automatic tank gauging (“ATG”) system that the

Facility once used as its primary tank release detection method, pursuant to 25 PA Code § 245.444(4).

11. At the time of the September 28, 2017 CEI, however, the F-Street Sunoco Facility operator explained to the EPA Inspector that the monthly high through-put of gasoline pumped from the Facility USTs regularly caused failing ATG results, such that the Facility owner and operator elected to change the primary tank release detection method from ATG to statistical inventory reconciliation (“SIR”), pursuant to 25 PA Code § 245.444(8).
12. On September 28, 2017, the Facility operator explained to the EPA Inspector that the Facility ATG is used to obtain daily inventory readings from each of UST Nos. 1, 2 and 3 at the Facility, pursuant to applicable SIR protocols. The Facility operator further explained that the daily inventory readings from each Facility UST are entered into a computer system, on a daily basis, and submitted electronically to a third party, Synergy Environmental, Inc., for statistical analysis and for the generation of required reports for each Facility UST (pursuant to 25 PA Code § 245.444(8)(ii), in order to fulfill applicable owner/operator tank release detection recordkeeping requirements, in accordance with 25 PA Code § 245.446(2) requirements).
13. During the September 28, 2017 CEI, the EPA Inspector observed records indicating 12 consecutive months of passing SIR results (from August 2016 through August 2017) for each of UST Nos. 1, 2 and 3, at the Facility. However, the date on all but one of these monthly SIR Reports significantly exceeded the 20-day (after the end of the monthly monitoring period) deadline for owner/operator availability of such reports that is prescribed by 25 PA Code § 245.444(8)(ii)(A).
14. On December 13, 2017, EPA issued the Facility operator an information request letter (“IRL”), pursuant to Section 9005 of RCRA, in which EPA, among other things, asked the Facility operator to: (i) identify when the Respondents first began to use SIR as the method of tank release detection at the Facility for each of the Facility USTs; (ii) provide copies of all SIR reports, for each of the Facility USTs, from January 2013 through the date of the IRL; and, (iii) to explain the reason(s) why any Facility UST SIR report initially became available to the Facility owner/operator at a time subsequent to the regulatorily prescribed 20-days from the end of the relevant 30-day monitoring period.
15. By response dated December 21, 2017, the Facility owner provided EPA with Facility UST release detection information for the each of 32 tank release detection monitoring periods, from March 2015 through October 2017, during which SIR was identified as the primary method of tank release detection at the Facility for each of the Facility USTs. That information, summarized in the Chart, immediately below, identifies: (i) each Facility tank release detection monitoring period, by period number and by month/year; (ii) the associated SIR “due date” (pursuant to 25 PA Code § 245.444(8)(ii)(A)); (iii) the



date each associated tank release detection SIR Report for the three Facility USTs was made available to the Respondents; and, (iv) the number of days beyond the allowable (“within 20 days of the end of the monitored period”) deadline, if any, that each associated SIR report initially became available to the Facility owner/operator for each of the three USTs (i.e., UST No. 1, UST No. 2 and UST No. 3) at the F-Street Sunoco Facility.

**SIR Report Availability – UST No. 1, No. 2 and No. 3 – F Street Sunoco Facility**

<b>MONITORING PERIOD NO.</b>	<b>TANK RELEASE DETECTION MONITORING PERIOD</b>	<b>SIR REPORT DUE DATE</b>	<b>SIR REPORT DATE OF AVAILABILITY</b>	<b>DAYS BEYOND 20-DAY SIR REPORT AVAILABILITY DEADLINE (i.e., “Days of Noncompliance”)</b>
1.	March 2015	04-20-2015	04-13-2015	0 Days - <i>No Noncompliance</i>
2.	<b>April 2015</b>	<b>05-20-2015</b>	<b>06-23-2015</b>	<b>= 34 Days of Noncompliance</b>
3.	May 2015	06-20-2015	06-23-2015	3 Days - <i>No Noncompliance Alleged</i>
4.	<b>June 2015</b>	<b>07-20-2015</b>	<b>08-19-2015</b>	<b>= 30 Days of Noncompliance</b>
5.	July 2015	08-20-2015	08-14-2015	0 Days - <i>No Noncompliance</i>
6.	<b>August 2015</b>	<b>09-20-2015</b>	<b>10-13-2015</b>	<b>= 23 Days of Noncompliance</b>
7.	September 2015	10-20-2015	10-14-2015	0 Days - <i>No Noncompliance</i>
8.	<b>October 2015</b>	<b>11-20-2015</b>	<b>01-15-2016</b>	<b>= 56 Days of Noncompliance</b>
9.	<b>November 2015</b>	<b>12-20-2015</b>	<b>01-15-2016</b>	<b>= 26 Days of Noncompliance</b>
10.	December 2015	01-20-2016	01-15-2016	0 Days - <i>No Noncompliance</i>
11.	<b>January 2016</b>	<b>02-20-2016</b>	<b>04-04-2016</b>	<b>= 44 Days of Noncompliance</b>
12.	<b>February 2016</b>	<b>03-20-2016</b>	<b>04-04-2016</b>	<b>= 15 Days of Noncompliance</b>
13.	<b>March 2016</b>	<b>04-20-2016</b>	<b>06-22-2016</b>	<b>= 63 Days of Noncompliance</b>
14.	<b>April 2016</b>	<b>05-20-2016</b>	<b>06-21-2016</b>	<b>= 32 Days of Noncompliance</b>
15.	<b>May 2016</b>	<b>06-20-2016</b>	<b>06-27-2016</b>	<b>= 7 Days of Noncompliance</b>
16.	<b>June 2016</b>	<b>07-20-2016</b>	<b>10-04-2016</b>	<b>= 76 Days of Noncompliance</b>
17.	<b>July 2016</b>	<b>08-20-2016</b>	<b>10-04-2016</b>	<b>= 45 Days of Noncompliance</b>
18.	<b>August 2016</b>	<b>09-20-2016</b>	<b>10-04-2016</b>	<b>= 14 Days of Noncompliance</b>
19.	<b>September 2016</b>	<b>10-20-2016</b>	<b>02-07-2017</b>	<b>= 110 Days of Noncompliance</b>
20.	<b>October 2016</b>	<b>11-20-2016</b>	<b>02-07-2017</b>	<b>= 79 Days of Noncompliance</b>
21.	<b>November 2016</b>	<b>12-20-2016</b>	<b>02-07-2017</b>	<b>= 49 Days of Noncompliance</b>
22.	<b>December 2016</b>	<b>01-20-2017</b>	<b>09-26-2017</b>	<b>= 249 Days of Noncompliance</b>
23.	<b>January 2017</b>	<b>02-20-2017</b>	<b>09-26-2017</b>	<b>= 218 Days of Noncompliance</b>
24.	<b>February 2017</b>	<b>03-20-2017</b>	<b>09-26-2017</b>	<b>= 190 Days of Noncompliance</b>
25.	<b>March 2017</b>	<b>04-20-2017</b>	<b>09-26-2017</b>	<b>= 159 Days of Noncompliance</b>
26.	<b>April 2017</b>	<b>05-20-2017</b>	<b>09-26-2017</b>	<b>= 129 Days of Noncompliance</b>
27.	<b>May 2017</b>	<b>06-20-2017</b>	<b>09-26-2017</b>	<b>= 98 Days of Noncompliance</b>
28.	<b>June 2017</b>	<b>07-20-2017</b>	<b>09-26-2017</b>	<b>= 68 Days of Noncompliance</b>
29.	<b>July 2017</b>	<b>08-20-2017</b>	<b>09-26-2017</b>	<b>= 37 Days of Noncompliance</b>
30.	August 2017	09-20-2017	09-26-2017	0 Days - <i>No Noncompliance</i>
31.	<b>September 2017</b>	<b>10-20-2017</b>	<b>12-05-2017</b>	<b>= 76 Days of Noncompliance</b>
32.	<b>October 2017</b>	<b>11-20-2017</b>	<b>12-05-2017</b>	<b>= 46 Days of Noncompliance</b>

16. On May 16, 2018, EPA issued the Respondents a *Request to Show Cause* letter (“SCL”). In the SCL, the Agency notified Respondents that, based upon records and information provided to EPA by the Respondents during the CEI, in response to the IRL and throughout the course of EPA’s Facility investigation, EPA believed that Respondents had failed to comply with federally-authorized Pennsylvania UST Management Program regulations by failing to have SIR tank release detection reports timely available to them, pursuant to 25 PA Code § 245.444(8) requirements, for each of Monitoring Period Nos. 2 - 4, 6, 8 – 29 and 30 – 31, as identified in the Paragraph 15 Chart, immediately above, for the three USTs (*i.e.*, UST No. 1, UST No. 2 and UST No. 3) at the Facility, during the period of March 2015 through October 2017. In its SCL, EPA also invited Respondents to provide any additional information in their possession which they might wish EPA to consider before concluding its investigation.
17. In response to the Agency’s SCL, Respondents initially provided EPA with documentation of the Facility having received timely, passing ATG results, compliant with 25 PA Code § 245.444(4) tank release detection requirements, for its Premium Gasoline (10,000 gallon) UST No. 1, during each of the 12 most recent monthly tank release detection monitoring periods (representing the maximum retention period of the ATG equipment’s memory system). Respondents also provided documentation to EPA representatives which confirmed that the Facility operator regularly received monthly tank release detection results from the Facility’s ATG system for each of its 3 Facility USTs, and explained that: (i) Facility UST No. 1 (*i.e.*, the Premium Gasoline UST) Facility was not affected by the high through-put problems that regularly caused the ATG system to generate invalid tank release detection monitoring results at the other two, higher volume, regular gasoline Facility USTs (*i.e.*, UST No. 2 and UST No. 3); and, (ii) Respondents had never recalled receiving, and had no evidence of ever having received, any invalid, inconclusive or failing tank release detection ATG results for Facility UST No. 1 during any of Monitoring Period Nos. 1 – 32, as identified in the Paragraph 15 Chart, above.
18. In accordance with Section 9006(a)(2) of RCRA, 42 U.S.C. § 6991e(a)(2), EPA notified the Commonwealth of Pennsylvania of EPA’s intent to commence this administrative action against the Respondents, in response to the violations alleged and set forth in Section V (“Violations Alleged”), immediately below, through a March 29, 2018 letter addressed and mailed to Mr. Kris Shiffer, Environmental Group Manager, Pennsylvania Department of Environmental Protection, Division of Storage Tanks, Rachel Carson Building, 400 Market Street, Harrisburg, PA 17101.



**V. VIOLATIONS ALLEGED**

**COUNTS 1 - 2**

***Failure to Comply with Applicable  
Monthly Tank Release Detection Monitoring Requirements  
for Each of Two (2) Facility Petroleum USTs***

19. The allegations contained in Paragraphs 1 through 18 of this CA are incorporated by reference herein as though fully set forth at length.
20. With exceptions not herein applicable, 25 PA Code § 245.442(1) requires that owners and operators of USTs shall provide release detection for underground storage tanks by monitoring such tanks at least every 30 days for releases in accord with any of the methods set forth at 25 PA Code § 245.444(4) - (9), which methods include: ATG; Vapor Monitoring; Groundwater Monitoring; Interstitial Monitoring; SIR; and Other Methods (if an owner or operator has demonstrated to the Pennsylvania Department of Environmental Protection that such other type or types of release detection method or methods: (i) can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or (ii) can detect a release as effectively as any of the methods allowed in 25 PA Code § 245.444(3) - (8)).
21. Subsequent to each of the monthly reporting time periods identified as Monitoring Period Nos. 2, 4, 6, 8 – 29 and 30 – 31, as identified in the Paragraph 15 Chart, above, Respondents failed to have timely, valid SIR tank monitoring reports available to them “within 20 days of the end of the monitored period,” for each of the UST No. 2 and UST No. 3 petroleum USTs located at the F-Street Sunoco Facility (as identified in the Paragraph 7.c. Chart, above), as required pursuant to 25 P.A. Code § 245.444(8)(ii)(A).
22. Subsequent to each of the Monitoring Period Nos. 2, 4, 6, 8 – 29 and 30 – 31 monthly reporting time periods, as identified in the Paragraph 15 Chart, above, Respondents failed to: (a) have valid SIR tank monitoring reports timely available to them “within 20 days of the end of the monitored period,” as required pursuant 25 P.A. Code § 245.444(8)(ii)(A); or (b) otherwise provide timely and valid release detection, in accordance with the requirements of any of the other available release detection methods set forth at 25 PA Code § 245.444(4) - (7), or (9), for each of the UST No. 2 and UST No. 3 Facility petroleum USTs (as identified in the Paragraph 7.c. Chart, above) at the F-Street Sunoco Facility.
23. Respondents’ failure to comply with the applicable tank release detection SIR report availability requirements of 25 PA Code § 245.444(8)(ii)(A), or to otherwise fully comply with the requirements of any of the other available tank release detection methods set forth at 25 PA Code §§ 245.444(4) - (7), or (9), for UST No. 2 and for UST

No. 3 at the F-Street Sunoco Facility (as identified in the Paragraph 7.c. Chart, above) during each of Monitoring Period Nos. 2, 4, 6, 8 – 29 and 30 – 31, (as identified in the Paragraph 15 Chart, above), constitutes two separate counts of violating the requirements of 25 PA Code § 245.442(1), and 1,973 days, respectively, that Respondents were in violation of 25 PA Code § 245.442(1) with respect to each of these two Facility USTs.

## **VI. CIVIL PENALTIES**

24. In settlement of EPA's claims for civil penalties assessable for the violations alleged in this CA, Respondents consent to the assessment of a civil penalty in the amount of **Twenty-Two Thousand Eighty Dollars (\$22,080.00)**, which Respondents shall be jointly and severally liable to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondents' receipt of a true and correct copy of this CAFO. If Respondents pay the entire penalty of **Twenty-Two Thousand Eighty Dollars (\$22,080.00)** within thirty (30) calendar days of the date on which this CAFO is mailed or hand-delivered to the Respondents, no interest will be assessed against the Respondent pursuant to 40 C.F.R. § 13.11(a)(1).
25. The Parties represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including, but not limited to, the statutory factors of the seriousness of Respondents' violations and any good faith efforts by Respondents to comply with all applicable requirements as provided in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), and in accordance with EPA's *Penalty Guidance for Violations of UST Regulations*, dated November 4, 1990. Complainant has also considered the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the January 11, 2018 Memoranda by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation (Effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*.
26. Payment of the civil penalty amount shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
  - a. All payments by Respondents shall reference each Respondent's name and address, and the Docket Number of this action, *i.e.*, **RCRA-03-2018-0148**;
  - b. All checks shall be made payable to "**United States Treasury**";
  - c. All payments made by check and sent by regular mail shall be addressed and mailed to:



U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

Primary Contact: Craig Steffen, 513-487-2091  
Secondary Contact: Contact: Jessica Henderson, 513-487-2718

- d. All payments made by check and sent by overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101

Contact: (314) 418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance  
US EPA, MS-NWD  
26 W. M.L. King Drive  
Cincinnati, OH 45268-0001

27. Respondents may also pay the amount described in Paragraph 24 above, electronically or on-line as follows:

- a. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York  
ABA = 021030004  
Account = 68010727  
SWIFT Address = FRNYUS33  
33 Liberty Street  
New York, NY 10045  
(Field Tag 4200 of the wire transfer message should read:  
"D 68010727 Environmental Protection Agency")

- b. All electronic payments made through the automated clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver  
ABA = 051036706  
Account Number: 310006, Environmental Protection Agency  
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:  
5700 Rivertech Court  
Riverdale, MD 20737

Contact: John Schmid, (202) 874-7026  
or Remittance Express (REX): 1-866-234-5681

- c. On-Line Payment Option:

[WWW.PAY.GOV/PAYGOV](http://WWW.PAY.GOV/PAYGOV)

Enter sfo 1.1 in the search field. Open and complete the form.

- d. Additional payment guidance is available at:

[http://www.epa.gov/ocfo/finservices/make\\_a\\_payment.htm](http://www.epa.gov/ocfo/finservices/make_a_payment.htm)

28. A copy of Respondents' check or a copy of Respondents' electronic transfer payment shall be sent simultaneously to:

Regional Hearing Clerk (3RC00)  
EPA Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029;

and

A.J. D'Angelo  
Senior Assistant Regional Counsel (3RC50)  
U.S. Environmental Protection Agency - Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.



29. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CA and the attached Final Order shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
30. The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
31. A late penalty payment of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
32. Respondents each agree not to deduct, for federal tax purposes, all or any portion of the civil monetary penalty specified in this CA and the accompanying Final Order.

#### **VII. EFFECT OF SETTLEMENT**

33. The settlement set forth in this CAFO shall constitute full and final satisfaction of all civil claims for penalties which Complainant may have against Respondents under RCRA Section 9006(a), 42 U.S.C. § 6991e, for the specific violations alleged in Section V ("Violations Alleged"), above. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

#### **VIII. OTHER APPLICABLE LAWS**

34. Nothing in this CAFO shall relieve Respondents of their respective obligations to comply with all applicable federal, state, and local laws and regulations, nor does this CAFO constitute a waiver, suspension or modification of the requirements of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991i, or any regulations promulgated or authorized thereunder.

**IX. CERTIFICATION OF COMPLIANCE**

35. Respondents certify to EPA, upon personal investigation and to the best of their knowledge and belief, that they are each presently in compliance with all relevant and applicable provisions of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and with all relevant regulations in the Pennsylvania Authorized UST Management Program for which violations are alleged in this CA at the F-Street Sunoco Facility.

**X. RESERVATION OF RIGHTS**

36. This CA and the accompanying Final Order resolve only EPA's claims for civil monetary penalties for the specific violations alleged against the Respondents in this CAFO. EPA reserves the right to commence action against any person, including each of the Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the *Consolidated Rules of Practice*, 40 C.F.R. § 22.18(c). Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

**XI. PARTIES BOUND**

37. This CA and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondents and the Respondents' respective successors, agents and assigns.

**XII. EFFECTIVE DATE**

38. The effective date of this CA and the accompanying Final Order (which is signed by the Regional Administrator of EPA Region III, or his designee, the Regional Judicial Officer), shall be the date the CAFO is filed with the EPA Regional Hearing Clerk pursuant to the *Consolidated Rules of Practice*.

**XIII. ENTIRE AGREEMENT**

39. This CA and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.



**XIV. EXECUTION**

40. The person signing this CA on behalf of each Respondent acknowledges and certifies, by his respective signature, that he is fully authorized to enter into this CA and to legally bind the Respondent whom he represents to the terms and conditions of this CA and the accompanying Final Order.

For the Respondent 3951 Roosevelt Blvd. Realty Corporation:

Date: \_\_\_\_\_

By:

  
Mr. Maurizio Lo Piccolo, President  
3951 Roosevelt Blvd. Realty Corporation

*In the Matter of:*  
*3951 Roosevelt Blvd. Realty Corporation and Liberty Tradeplus, Inc.*

*Consent Agreement*  
*Docket No. RCRA-03-2018-0148*

For the Respondent Liberty Tradeplus, Inc.:

Date: 08-31-2018

By: Ranbir C. Chand  
Mr. Ranbir C. Chand, President  
Liberty Tradeplus, Inc.




*In the Matter of:*  
*3951 Roosevelt Blvd. Realty Corporation and Liberty Tradeplus, Inc.*

*Consent Agreement*  
*Docket No. RCRA-03-2018-0148*


For the Complainant:

Date: 9/5/2018

By:   
A.J. D'Angelo, Esquire  
Sr. Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region III

After reviewing the foregoing Findings of Fact, Conclusions of Law and other pertinent matters, the Waste and Chemicals Management Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9.18.18

By:   
John A. Armstead, Director  
Land and Chemicals Division  
U.S. Environmental Protection Agency, Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

<b>In the Matter of:</b>	:	
	:	
<b>3951 Roosevelt Blvd. Realty Corporation</b>	:	<b>Docket No. RCRA-03-2018-0148</b>
<b>439 S. Governor Prince Blvd.</b>	:	
<b>Essington, PA 19029</b>	:	
	:	<b>U.S. EPA-REGION 3-RHC</b>
	:	FILED-19SEP2018AM8:16
<b>and</b>	:	
	:	
<b>Liberty Tradeplus, Inc.</b>	:	<b>Proceeding Under Section 9006 of the</b>
<b>3951 Roosevelt Boulevard</b>	:	<b>Resource Conservation and Recovery</b>
<b>Philadelphia, PA 19124,</b>	:	<b>Act, as amended, 42 U.S.C. § 6991e.</b>
	:	
<b>Respondents.</b>	:	

**FINAL ORDER**

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III, and Respondents, 3951 Roosevelt Blvd. Realty Corporation and Respondent Liberty Tradeplus, Inc., collectively referred to as “Respondents,” have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“*Consolidated Rules of Practice*”), 40 C.F.R. Part 22, with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

**WHEREFORE**, pursuant to Section 9006 of the Resource Conservation and Recovery Act (“RCRA”), as amended, 42 U.S.C. § 6991e, with respect to violations of RCRA Subtitle I, 42 U.S.C. §§ 6991-6991m, and of the Commonwealth of Pennsylvania’s federally authorized



underground storage tank program, and having determined, based on the representations of the parties to the attached Consent Agreement, that the civil penalty agreed therein was based upon a consideration of, *inter alia*: the statutory penalty factors set forth in RCRA Section 9006(c), 42 U.S.C. § 6991e(c), EPA's *Penalty Guidance for Violations of UST Regulations*, dated November 4, 1990; the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the January 11, 2018 Memoranda by EPA Assistant Administrator Susan Parker Bodine, entitled *Amendments to the EPA's Civil Penalty Policies to Account for Inflation (Effective January 15, 2018) and Transmittal of the 2018 Civil Monetary Penalty Inflation Adjustment Rule*, **IT IS HEREBY ORDERED** that Respondents pay a civil monetary penalty of Twenty-Two Thousand Eighty Dollars (\$22,080.00), in accordance with the provisions of the foregoing Consent Agreement, and comply timely with each of the additional terms and conditions thereof.

The effective date of the foregoing Consent Agreement and this Final Order, signed by the Regional Administrator of the U.S. Environmental Protection Agency, Region III, or his designee, the Regional Judicial Officer, is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: Sept. 19, 2018

  
\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

In the Matter of: :  
: :  
3951 Roosevelt Blvd. Realty Corporation : Docket No. RCRA-03-2018-0148  
439 S. Governor Prince Blvd. :  
Essington, PA 19029 :  
: :  
and :  
: :  
Liberty Tradeplus, Inc. : Proceeding Under Section 9006 of the  
3951 Roosevelt Boulevard : Resource Conservation and Recovery  
Philadelphia, PA 19124, : Act, as amended, 42 U.S.C. § 6991e.  
: :  
Respondents. :

**CERTIFICATE OF SERVICE**

I certify that on SEP 19 2018, the original and one (1) copy of foregoing *Consent Agreement* and of the associated *Final Order*, each were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served true and correct copies of the same to each of the following persons, in the manner specified below, at the following addresses:

Copies served via **Certified Mail, Return Receipt Requested, Postage Prepaid**, to the following persons at the following addresses:

(Article No. 7001 2510 0001 1042 9511)

Mr. Maurizio Lo Picolo  
3951 Roosevelt Blvd. Realty Corporation  
439 S. Governor Prince Blvd.  
Essington, PA 19029

(President of Respondent 3951  
Roosevelt Blvd. Realty Corporation)

(Article No. 7001 2510 0001 1042 9528)

Mr. Ranbir Chand  
Liberty Tradeplus, Inc.  
3951 Roosevelt Boulevard  
Philadelphia, PA 19124

(President of Respondent  
Liberty Tradeplus, Inc.)

Copies served via **Hand Delivery or Inter-Office Mail** to:

A.J. D'Angelo, Esq.  
Sr. Assistant Regional Counsel (3RC50)  
UST, Asbestos, Lead & Pesticides Branch  
Office of Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street, 5<sup>th</sup> Floor, Office #110  
Philadelphia, PA 19103-2029

(Attorney for Complainant)

SEP 19 2018

Date

*Berwin Esposito*

Regional Hearing Clerk  
Office of Regional Counsel  
U.S. EPA, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029