

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

IN THE MATTER OF:

**4th Elite Corporation
227 N Church Street
Thurmont, MD 21788**

Respondent,

**Thurmont Liberty
227 N Church Street
Thurmont, MD 21788**

Facility

) **DOCKET NO.: RCRA-03-2022-0052**

) **EXPEDITED SETTLEMENT
AGREEMENT AND FINAL ORDER**

EXPEDITED SETTLEMENT AGREEMENT

1. 4th Elite Corporation (“Respondent”) and the Director, Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) enter into this Expedited Settlement Agreement (“Agreement”) 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 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated the authority to enter into this Agreement to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency, Region III (“EPA”) has jurisdiction over this matter pursuant to 9006 of RCRA, 42 U.S.C. § 6991e, and 40 C.F.R. §§ 22.1(a)(4) and 22.4 of the Consolidated Rules of Practice.
3. Complainant alleges that, at all times relevant to the allegations described in this Agreement, the Respondent was and continues to be a corporation and therefore a “person,” as defined in Section 9001(5) of RCRA, 42 U.S.C. § 6991(5), and COMAR 26.10.02.04, and the “operator” and/or “owner” of “underground storage tanks” (“USTs”) and “UST systems,” as defined in Sections 9001(3), (4) and (10) of RCRA, 42, U.S.C. §§ 6991(3), (4), and (10); and COMAR 26.10.02.04(40), (42) and (64), located at Thurmont Liberty, 227 N Church Street, Thurmont, MD 21788 (the “Facility”).
4. Complainant alleges that Respondent failed to comply with specific requirements of Subtitle I of RCRA, 42 U.S.C. §§ 6991 *et seq.*, its implementing regulations at 40 C.F.R. Part

280, and the federally-authorized Maryland UST management program regulations set forth in the Code of Maryland Regulations (“COMAR”).

5. On September 15, 2020, the United States Environmental Protection Agency, Region III (“EPA”) performed a compliance evaluation inspection (“CEI”) at the Thurmont Liberty Facility located at 227 N Church Street in Thurmont, MD. Based on the information obtained during that inspection, the following USTs are located at the Facility:
 - a. A 12,000-gallon tank that was installed in or about October 1980, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR 26.10.02.04(50) (hereinafter “UST No. 1”).
 - b. A 8,000-gallon tank that was installed in or about October 1980, and that, at all times relevant hereto, routinely contained regular-grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR 26.10.02.04(50) (hereinafter “UST No 2”).
 - c. A 10,000-gallon tank that was installed in or about October 1980, and that, at all times relevant hereto, routinely contained premium-grade gasoline, a “regulated substance” as that term is defined in Section 9001(7) of RCRA, 42. U.S.C. § 6991(7), and COMAR 26.10.02.04(50) (hereinafter “UST No. 3”).
6. Complainant has identified the following violation:
 - Failure to operate and maintain cathodic protection on three UST systems as required by COMAR 26.10.04.02 B and E on USTs 1, 2 and 3 from July 14, 2020 to March 25, 2021.
7. Complainant and Respondent agree that settlement of this matter for a total penalty of **TWO THOUSAND EIGHT HUNDRED TWENTY DOLLARS (\$2,820.00)** is in the public interest. In calculating this amount, Complainant considered the statutory factors set forth in Section 9006(c) of RCRA, 42 U.S.C. § 6991e(c), and the Interim Consolidated Enforcement Penalty Policy for Underground Storage Tank Regulations and Revised Field Citation Program and ESA Pilot, effective October 5, 2018.
8. Respondent agrees that, within 30 days of the effective date of this Agreement, Respondent shall make a payment of **TWO THOUSAND EIGHT HUNDRED TWENTY DOLLARS (\$2,820.00)** by one of four methods: 1) electronic funds transfer (“EFT”), 2) Automated Clearinghouse, 3) Pay.gov, or 4) a cashier’s check or certified check made out to “**United States Treasury**” with the case name, address and docket number of this Agreement (RCRA-03-2022-0052), for the amount specified above:
 - a. Payment of the penalty amount by EFT:
Federal Reserve Bank of New York
ABA 021030004

Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b. Payment of the penalty amount by Automated Clearinghouse (“ACH”):

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c. Payments made through Pay.gov:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You **DO NOT** need a user name and password or account.
- (2) Enter **SFO 1.1** in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the “Type of Payment” drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d. Payment of the penalty amount by regular U.S. Postal Service shall be sent via certified mail to:

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

e. Payment of the penalty amount by overnight mail (FedEx or other non-U.S. Postal Service express mail) shall be sent to:

U.S. Environmental Protection Agency

Government Lock Box - Cincinnati Finance Center Box 979077
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

- f. A list of the payment methods is also provided at this website
<https://www.epa.gov/financial/makepayment>.
9. Within 24 hours of payment, Respondent shall also send proof of payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer), by electronic mail to:

Melissa Toffel, UST Compliance Officer (3ED22)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
toffel.melissa@epa.gov

and,

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

10. In signing this Agreement, Respondent: admits the jurisdictional allegations in this Agreement; neither admits nor denies the specific factual allegations in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; agrees to bear its own costs and attorney's fees; and agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
11. By its signature below, Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that (1) he or she has corrected the alleged violations, and (2) any documentation or information that he or she provided to EPA was true and accurate.
12. This Agreement and the attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
13. EPA reserves the right to commence action against any person, including Respondent, 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 Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the RCRA, the RCRA regulations promulgated, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

14. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
15. This Agreement is binding on the parties signing below and is effective upon filing, in accordance with 40 C.F.R. § 22.31(b).
16. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind 4th Elite Corporation.

For Respondent: 4th Elite Corporation

Date: 02/07/22

By: 
Zafar Iqbal, 4th Elite Corporation

For Complainant: U.S. Environmental Protection Agency, Region III

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____

Karen Melvin, Director
Enforcement & Compliance Assurance Division

not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6991 et seq., and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

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CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copy served via email to:

4th Elite Corporation
c/o Zafar Iqbal
227 N Church Street
Thurmont, MD 21788
Ud.sunoco@gmail.com

and

Melissa Toffel, UST Compliance Officer
U.S. EPA Region III
Enforcement and Compliance Assurance Division (Mail Code 3ED22)
1650 Arch Street
Philadelphia, PA 19103-2029
toffel.melissa@epa.gov

Regional Hearing Clerk
U.S. Environmental Protection Agency,
Region III