Oregon
Kate Brown, Governor

Department of Environmental Quality
Headquarters
811 SW 6th Ave
Portland, OR 97204-1390
(503) 229-5696
FAX (503) 229-6124
TTY: 711

September 19, 2016

CERTIFIED MAIL No. 7014 2870 0001 3373 6286

Shola Adeniji,
doing business as Shola's Quality Plus Cleaners
1755 E 43rd Street
Eugene, OR 97405

Re: Notice of Civil Penalty Assessment and Order to Comply
Case No. LQ/DC-WR-2016-123

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a $525.00 civil penalty for failing to submit your 2015 Annual Report that was due March 1, 2016. Despite sending you at least six reminders and notices this year regarding the required annual reporting forms for your dry cleaning business, DEQ has not received any response.

DEQ issued this penalty because annual reports are an important mechanism for DEQ to ensure that dry cleaners are complying with Oregon's waste minimization regulations. Solvents used for dry cleaning can be toxic and therefore harmful to the public and the environment. For this reason, all dry cleaners and dry stores in Oregon are required to submit annual reports and fee payments to DEQ to help prevent spills of dry cleaning solvent and to fund cleanups of legacy dry cleaning contamination.

Included in Section IV is an order requiring you to ***submit your 2015 Annual Report, including the 2016 Fee Return*** (using all the records you have and can legitimately create) to DEQ ***within 30 days***.

If you wish to appeal this matter, you have 20 calendar days from receipt of this letter to request a contested case hearing. This hearing request must be in writing. Send your hearing request to DEQ Office of Compliance and Enforcement – Appeals:

Via mail - 811 S.W. 6th Ave., Portland, OR 97204
Via fax - 503-229-5100

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a written hearing request from you within 20 days, the penalty will become due.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review it and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve a portion your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor in lieu of paying part of your penalty. Enclosed is more detail on how to pursue a SEP.

DEQ's rules are available on the internet at http://www.deq.state.or.us/regulations/rules.htm, or by calling the number below to request a paper copy.

If you have any questions, please contact DEQ Environmental Law Specialist Rick Grisel at 503-229-5422. You may call toll-free within Oregon at 1-800-452-4011, extension 5422.

Sincerely,

Sarah G. Wheeler, Acting Manager
Office of Compliance and Enforcement
Oregon Department of Environmental Quality

Enclosures

cc: Joe Westersund, Dry Cleaner Program Coordinator, DEQ Headquarters

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

OF THE STATE OF OREGON

IN THE MATTER OF: SHOLA ADENIJI, doing business as SHOLA'S QUALITY PLUS CLEANERS Respondent.	)	NOTICE OF CIVIL PENALTY ASSESSMENT AND ORDER CASE NO. LQ/DC-WR-2016-123

I. AUTHORITY

The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100 and 468.126 through 468.140, ORS 465.200 and ORS 465.500 through 465.545, ORS 465.900, ORS Chapters 183 and 468A, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012, and 124.

II. FINDINGS OF FACT

1. At all material times, Respondent had a business license to operate a dry cleaning facility at 2101 Bailey Hill Road, Suite J, Eugene, OR (Facility).

2. At all material times, Respondent was a dry cleaning operator within the meaning of OAR 340-124-0015(11).

3. ORS 465.505(3) and OAR 340-124-0040(4) require dry cleaning operators to report annually to DEQ, in March of each year on forms supplied by DEQ, a completed Dry Cleaner Annual Report that includes an Annual Dry Cleaner Fee Return (Annual Report) and any other information DEQ considers necessary for carrying out ORS 465.200 and ORS 465.500 to 465.545.

4. On or about December 14, 2015, DEQ sent Respondent a 2015 Annual Report form and a 2016 Fee Return form to complete and return to DEQ. This mailing included Fee Return Instructions, a compliance calendar, and a checklist. The completed Annual Report and Fee Return were due on March 1, 2016.

5. DEQ mailed late notices to Respondent in March, April, May, and June of 2016.

6. DEQ mailed a Warning Letter with Opportunity to Correct (WLOC) to Respondent on June 17, 2016. The WLOC was sent by U.S. Postal Service Certified Mail and was received by Respondent or

Respondent's agent on June 22, 2016.

7. The WLOC provided Respondent two (2) weeks after receipt of the WLOC to submit the required information and documents, but DEQ has received no response from Respondent.

8. DEQ mailed a Pre-Enforcement Notice (PEN) to Respondent on July 12, 2016 by U.S. Postal Service Certified Mail that was received by Respondent or Respondent's agent on July 14, 2016. The PEN included a copy of the Annual Report, Fee Return, and associated documents, and again requested Respondent's submission of these required forms.

9. To date, Respondent has neither responded nor submitted the 2015 Annual Report or 2016 Fee Return.

III. CONCLUSIONS

1. On or about March 1, 2016, Respondent violated ORS 465.505(3) and OAR 340-124-0040(4)(a) by failing to submit the 2015 Annual Report or 2016 Fee Return. This is a Class II violation according to OAR 340-012-0097(2)(f). DEQ hereby assesses a $525.00 civil penalty for this violation.

IV. ORDER TO PAY CIVIL PENALTY AND COMPLY

Based upon the foregoing FINDINGS OF FACT and CONCLUSIONS, Respondent is hereby ORDERED TO:

1. Pay a total civil penalty of $525.00. The determination of this civil penalty is attached as Exhibit No. 1 and is incorporated as part of this Notice.

2. Submit a complete 2015 Annual Report to DEQ ***within 30 days of this Order becoming final***. A complete Annual Report ***must include a completed Dry Cleaner Fee Return*** form for 2016.

3. Submit the required reports and documentation to: Joe Westersund, DEQ Dry Cleaner Program Coordinator, 811 SW 6th Avenue, Portland, OR 97204.

If you do not file a request for hearing as set forth in Section V below, your check or money order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business Office, 811 S.W. Sixth Avenue, Portland, Oregon 97204**. Once you pay the penalty, the Findings of Fact, Conclusions and Order become final.

V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

You have a right to a contested case hearing on this Notice, if you request one in writing. You must ensure that DEQ receives the request for hearing **within 20 calendar days** from the date you receive this Notice. If you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached exhibit(s), you must include them in your request for hearing, as factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. (*See* OAR 340-011-0530 for further information about requests for hearing.)

You must mail the request for hearing to: **DEQ, Office of Compliance and Enforcement - Appeals, 811 SW Sixth Avenue, Portland, Oregon 97204**, or fax it to **503-229-5100**. An administrative law judge employed by the Office of Administrative Hearings will conduct the hearing, according to ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be represented by an attorney at the hearing, or you may represent yourself unless you are a corporation, agency or association.

Active duty service-members have a right to stay proceedings under the federal Service members Civil Relief Act. For more information, please call the Oregon State Bar at 1-800-452-8260 or the Oregon Military Department at 1-800-452-7500. Additional information can be found online at the United States Armed Forces Legal Assistance (AFLA) Legal Services Locator website http://legalassistance.law.af.mil/content/locator.php.

If you fail to file a request for hearing in writing within 20 calendar days of receipt of the Notice, the Notice will become a final order by default without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates the relevant portions of its files, including information submitted by you, as the record for purposes of proving a prima facie case.

September 19, 2016
Date

Sarah G. Wheeler, Acting Manager
Office of Compliance and Enforcement
Oregon Department of Environmental Quality

EXHIBIT NO. 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION : Failure to submit an Annual Report to DEQ, in violation of ORS 464.505(3) and OAR 340-124-0040(4)(a).

CLASSIFICATION: This is a Class II violation pursuant to 340-012-0097(2)(f).

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0130(1), as there is no selected magnitude specified in OAR 340-012-0135 for this violation, and the information reasonably available to the Department does not indicate a minor or major magnitude.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: BP + [(0.1 x BP) x (P + H + O + M + C)] + EB

"BP" is the base penalty, which is $250 for a Class II, moderate magnitude violation in the matrix listed in OAR 340-012-0140(5)(b)(B)(ii) and applicable pursuant to OAR 340-012-0140(5)(a)(G), because the violation is a violation of the dry cleaning rules by a dry cleaning owner or operator.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives a value of 1 according to OAR 340-012-0145(2)(a)(B), because Respondent had one Class II prior significant actions in Notice of Civil Penalty Assessment and Order to Comply No. LQ/DC-WR-11-180 issued January 23, 2012.

"H" is Respondent's history of correcting prior significant actions and receives a value of 0 according to OAR 340-012-0145(3)(c), because there is insufficient information or no prior history regarding Respondent's correction of prior violations cited as PSAs.

"O" is whether the violation was repeated or ongoing and receives a value of 0 according to OAR 340-012-0145(4)(d), because there has been only one occurrence of the violation or there is insufficient information that the violation has occurred more than once. Respondent's 2015 Annual Report was due March 1, 2016. To date, Respondent has not submitted the report.

"M" is the mental state of the Respondent and receives a value of 8 according to OAR 340-012-0145(5)(d), because Respondent's conduct was reckless. Every year, DEQ has provided Respondent with the reporting requirements, along with blank annual reporting forms for Respondent to fill out. DEQ issued four separate late notices to Respondent in March, April, May, and June of 2016; issued Respondent a Warning Letter with Opportunity to Correct on June 17, 2016 by certified mail; and sent Respondent a Pre-Enforcement Notice

on or about July 12, 2016. All of these issuances notified Respondent of Respondent's failure to submit the 2015 annual report and that failure to submit the report may result in DEQ assessing civil penalties. In addition, DEQ assessed Respondent a civil penalty in 2012 for failing to submit annual reports. Respondent consciously disregarded the substantial and unjustifiable risk of failing to submit his annual report, and given the information and resources available to Respondent, disregarding this risk constituted a gross deviation from the standard of care a reasonable person would observe in this situation.

"C" is Respondent's efforts to correct the violation and receives a value of 2 according to OAR 340-012-0145(6)(g), because Respondent did not address the violation as described in paragraphs (6)(a) through (6)(e) and the facts do not support a finding under paragraph (6)(f).

"EB" is the approximate economic benefit that an entity gained by not complying with the law. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of $0, as DEQ has determined that any economic benefit gained as a result of these violations is de minimis.

PENALTY CALCULATION: Penalty = BP + [(0.1 x BP) x (P + H + O + M + C)] + EB
= $250 + [(0.1 x $250) x (1 - 0 + 0 + 8 + 2)] + $0
= $250 + [($25) x (11)] + $0
= $250 + $275 + $0
= $525