

LANCE R. LeFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

OCT 25 2012

CERTIFIED MAIL #91 7108 2133 3935 0353 8945
RETURN RECEIPT REQUESTED

Mr. Terry Holley, Superintendent
Covington County Board of Education
807 C. C. Baker Avenue
Andalusia, Alabama 36420

RE: Final Administrative Order No. 13-007-WP
Permit No. AL0044148
Red Level High School
Covington County (039)

Dear Mr. Holley:

Please find enclosed the ADEM Administrative Order No. 13-007-WP which requires you to take certain actions at Red Level High School in regard to alleged violations of the Alabama Water Pollution Control Act. This Administrative Order has been issued without the consent of the Covington County Board of Education and is effective immediately. Please note the assessed civil penalty is due within 45 days.

If you have questions regarding this matter, please contact Emily Anderson at 334-271-7811 or edanderson@adem.state.al.us.

Sincerely,

A handwritten signature in black ink that reads "Glenda L. Dean".

Glenda L. Dean, Chief
Water Division

GLD/eda

Enclosure

cc: Tom Johnston/ADEM, Office of General Counsel
Laura Eubank/ADEM, Office of General Counsel
Daphne Smart/ADEM, Industrial/Municipal Branch
Scott Ramsey/ ADEM, Industrial/Municipal Branch
Emily Anderson/ ADEM, Industrial/Municipal Branch

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941 1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

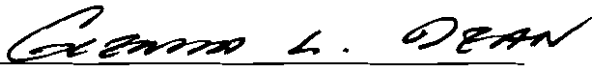
Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

ADMINISTRATIVE ORDER CERTIFICATE OF SERVICE

I, Glenda L. Dean, do hereby certify that I have served the executed Administrative Order Number 13-007-WP upon the person listed below by sending the same, postage paid, through the United States Mail, Certified Mail Receipt # 91 7108 2133 3935 0353 8945, with instructions to forward and return receipt to:

Mr. Terry Holley, Superintendent
Covington County Board of Education
807 C. C. Baker Avenue
Andalusia, AL 36420
Covington County (039)

Done this 25th day of OCT, 2012



Glenda L. Dean, Chief
Water Division
Alabama Department of Environmental Management

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)

**Covington County Board of Education)
Red Level High School)
Red Level, Covington County, Alabama)**

NPDES PERMIT NO. AL0044148)

UNILATERAL
ORDER NO. 13-007-WP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 to 22-22-14 (2006 Rplc. Vol.), the ADEM Administrative Code of Regulations ("hereinafter "ADEM Admin. Code r.") promulgated pursuant thereto, and § 402 of the Federal Water Pollution Control Act, 33 U.S.C. § 1342, the Alabama Department of Environmental Management (hereinafter "the Department") makes the following FINDINGS:

1. The Covington County Board of Education (hereinafter, "the Permittee") operates the Red Level High School WWTP (hereinafter "the WWTP"). The WWTP is located at 28551 Barrow Road in Red Level, Covington County, Alabama.

2. The Department is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 to 22-22A-16, Ala. Code (2006 Rplc. Vol.).

3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act Ala. Code §§ 22-22-1 through 22-22-14 (2006 Rplc. Vol.)

4. The Department reissued National Pollutant Discharge Elimination System (hereinafter "NPDES") Permit Number AL0044148 (hereinafter "the Permit") to the Permittee on April 29, 2009, effective May 1, 2009, establishing limits on the discharge of pollutants from a point source, designated therein as outfall number 001, to an unnamed tributary to Terry Mill

Creek, a water of the State.

5. Permit condition I.C.1.b requires the Permittee to submit discharge monitoring reports (hereinafter "DMRs") on the forms provided by the Department. In addition, 40 CFR 122.2 states that DMRs are required to be the EPA uniform national form or a modified version of the EPA national forms to substitute the state agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

6. The Permittee has failed to submit DMR forms provided by the Department. The Permittee has instead submitted self-generated DMRs that are not consistent with the preprinted DMRs supplied by the Department.

7. Permit condition I.C.1 requires that more frequently than monthly and monthly monitoring be submitted on a monthly basis. The Permittee failed to submit the June 2009, August through October 2009, April 2010, June through September 2010, and April 2011 monitoring data for Total Kjeldahl Nitrogen (TKN), Total Nitrite plus Nitrate (NO₂+NO₃), and Total Phosphorus (TP).

8. In addition, the Permittee failed to submit the December 2010 influent Total Suspended Solids (hereinafter "TSS"), Fecal Coliform, and influent Carbonaceous Biochemical Oxygen Demand (hereinafter "CBOD") monitoring data.

9. Permit condition I.C.1.b requires that DMRs of more frequently than monthly and monthly monitoring be submitted so that they are received by the Department no later than the 28th day of the month following the reporting period. As of August 25, 2011, the Department has not received the July 2009 and May 2010 monthly DMRs that were due on August 28, 2009, and June 28, 2010, respectively.

10. The June 2009, August through October 2009, April 2010, June through September 2010, and April 2011 monitoring data for TKN, NO₂+NO₃, and TP; December 2010 influent TSS, Fecal Coliform, and influent CBOD monitoring data; and July and May 2010 DMRs were received by the Department on March 19, 2012.

11. The monitoring data received on March 19, 2012 indicates TKN, NO₂+NO₃, and TP monitoring was not conducted during the June through October 2009, April through September 2010, and April 2011 monitoring periods.

12. Permit condition I.A requires that discharges be limited and monitored as specified in the Permit. The DMRs listed in Attachment 1 indicate that discharges from Outfall 001 did not comply with the Permit limitations.

13. The Department issued Consent Order No. 09-034-CWP (hereinafter "the Consent Order") to the Permittee on January 7, 2009. The Consent Order required the Permittee to submit an Engineering Report by April 7, 2009, in addition to two semi-annual Progress Reports due on July 7, 2009, and January 7, 2010. The Consent Order also required implementation of the Engineering Report to be completed, and compliance with CBOD Percent Removal, TSS Percent Removal, CBOD, TSS, Total Ammonia as Nitrogen (hereinafter "NH₃-N"), and Total Residual Chlorine permit limitations by January 7, 2010. In addition, the Consent Order also required the payment of stipulated penalties for each day the Permittee failed to meet any of the milestone dates or satisfy any of the requirements of paragraphs A, C, D, and E of the Consent Order.

14. The Department has no record that the Engineering Report and Progress Reports required by Consent Order No. 09-034-CWP were submitted. In addition, the Permittee failed to comply with the required permit limitations.

15. The Department conducted an inspection of the WWTP on December 1, 2010. During the inspection the Department noted that water usage from the water meter was being reported as the effluent flow. By utilizing the water usage values as the flow measurements, the flow values reported on the DMRs were not representative of the actual discharge flow and values were not recorded twice per month as required by the Permit.

16. Pursuant to Ala. Code § 22-22A-5(18)(c) (2006 Rplc. Vol.), in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation, including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed

compliance may confer upon such person; the nature, extent and degree of success of such person's efforts to minimize or mitigate the effects of such violation upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed Twenty Five Thousand Dollars (\$25,000.00) for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). Each day that such violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

A. **SERIOUSNESS OF THE VIOLATION:** Based on the information available to the Department, violations of the Permit, ADEM Admin. Code r. 335-6, and the AWPCA were noted. Considering the general nature of each violation, the magnitude and duration of each non-compliant discharge, the characteristics of each pollutant discharged, their effects, if any, on impaired waters, and any available evidence of irreparable harm to the environment or threat to public, the Department determined the base penalty to be \$26,200.00.

B. **THE STANDARD OF CARE:** The Permittee failed to submit timely June 2009, August through October 2009, April 2010, June through September 2010, and April 2011 TKN, NO₂+NO₃, and TP monitoring data; timely December 2010 influent TSS, Fecal Coliform, and influent CBOD monitoring data; timely July 2009 and May 2010 DMRs; and the Engineering Report and Progress Reports required by Consent Order No. 09-034-CWP. In consideration of the standard of care provided by the Permittee, the Department enhanced the penalty by an additional \$300.00.

C. **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has not been able to determine if there has been a significant economic benefit associated with the violations cited above.

D. **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT:** The Department is unaware of any efforts to minimize or mitigate the effects of the violations upon the environment.

E. HISTORY OF PREVIOUS VIOLATIONS: Consent Order No. 09-034-CWP cited permit limitation exceedances for CBOD, CBOD Percent Removal, TSS and NH3-N. The Permittee has continued to exceed the CBOD, CBOD Percent Removal, TSS and NH3-N Permit limitations after the final compliance date of the Consent Order. Consent Order No. 09-034-CWP also included the Permittee's failure to submit an Engineering Report required by a January 16, 2007, Notice of Violation. The Permittee also failed to submit the Engineering Report and Progress Reports required by Consent Order No. 09-034-CWP. In consideration of the history of previous violations the Department enhanced the penalty by an additional \$5,150.00.

F. THE ABILITY TO PAY: Given that the Permittee operates a public school system, under the education budget in the current economic situation, the Department has reduced the penalty by \$16,650.00 based upon the Permittee's expected inability to pay.

G. OTHER FACTORS: The civil penalty is summarized in Attachment 2.

ORDER

Based on the foregoing FINDINGS and pursuant to Ala. Code §§ 22-22A-10, 22-22A-5(12), 22-22A-5(18), and 22-22-9(i) (2006 Rplc. Vol.), it is hereby ORDERED:

A. That, not later than forty-five days from the date of issuance of this Order, the Permittee shall pay to the Department a civil penalty in the amount of \$15,000.00 for the violations cited herein.

B. That all penalties due pursuant to this Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P O Box 301463
Montgomery, Alabama 36130-1463

C. Unless already enrolled, the Permittee shall prepare and submit to the Department a complete application for enrollment in the Department's Electronic Environmental DMR Reporting System Program (hereinafter "E2 Program"), so that it is received by the Department

not later than thirty days after the effective date of this Order. If the Department determines through its review of the submitted application that the submittal is not sufficient for the Permittee to participate in the E2 Program, then the Permittee must modify the application so that it is sufficient. The Permittee shall submit modifications to the application, if required, so that they are received by the Department no later than fourteen days after receipt of the Department's comments. Upon acceptance by the Department into the E2 Program, the Permittee shall begin the electronic submittals of DMRs through the E2 Program no later than the 28th day of the month following the first complete monitoring period. The Permittee shall fully implement all aspects of the E2 Program including the cessation of federal paper DMR submittals, if applicable, no later than 180 days after acceptance into the E2 Program, unless an extension is granted in writing by the Department. The Permittee shall abide by all terms, conditions, and limitations of the E2 Program immediately upon acceptance into the E2 Program.

D. That the Permittee shall prepare and submit to the Department an Engineering Report that addresses the need for changes in maintenance and operating procedures, the need for modification of existing treatment works, and the need for new or additional treatment works. The Engineering Report must include a schedule for implementation (i.e., a Compliance Plan). The Engineering Report must be prepared by a professional engineer licensed to practice in the State of Alabama. The Engineering Report should be submitted so that it is received by the Department no later than 90 days after the date of issuance of this Order. If the Department determines through its review of the submitted Engineering Report that the submittal is not sufficient, then the Permittee must modify the Engineering Report. Modifications to the Engineering Report, if required, shall be submitted to the Department no later than thirty days after receipt of the Department's comments. The Permittee agrees to complete implementation of the recommendations provided in the Engineering Report not later than 730 days after the date of issuance of this Order.

E. That the Permittee shall prepare and submit detailed Semiannual Progress Reports to the Department describing the Permittee's progress towards achieving compliance with the

items presented in the Compliance Plan. The Progress Reports should be submitted so that they are received by the Department not later than six months after the date of issuance of this Order and continuing every six months thereafter that the Permittee's performance obligations under this Order remain incomplete. In addition, the Permittee shall submit a written notice of noncompliance with each applicable imposed requirement. The notice of noncompliance shall be submitted so that it is received by the Department no later than fourteen days following each applicable due date contained in this Order. Notices of noncompliance shall state the cause of noncompliance and the corrective action taken and shall also describe the Permittee's ability to comply with any remaining requirements of this Order.

F. The Permittee shall fully comply with the Permit limitations for Dissolved Oxygen, pH, Carbonaceous Biochemical Oxygen Demand (CBOD), Total Suspended Solids (TSS), Total Ammonia as Nitrogen, Percent Removal of CBOD, Fecal Coliform, and Percent Removal of TSS within 730 days from the effective date of this Order.

G. The Permittee shall comply with all other terms, conditions, and limitations of the Permit immediately upon the effective date of this Order.

H. That the Permittee shall submit a certification to the Department, signed by a professional engineer licensed to practice in the State of Alabama, indicating whether or not the Permittee is in compliance with all requirements of this Order. The certification will be submitted not later than 760 days after the date of issuance of this Order.

I. That this Order shall not affect the Permittee's obligation to comply with any Federal, State, or local laws or regulations.

J. That final approval and issuance of this Order are subject to the requirement that the Department provide notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the proposed Order.

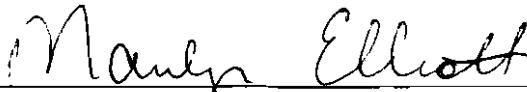
K. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

L. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Permittee of its obligations to comply in the future with any permit.

M. That the issuance of this Administrative Order does not preclude the Department from seeking criminal fines or other appropriate sanctions or relief against the Permittee for the violations cited herein.

N. That failure to comply with the provisions of this Administrative Order shall constitute cause for commencement of legal action by the Department against the Permittee for recovery of additional civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this 25th day of October, 2012.



Lance R. LeFleur

Director

Alabama Department of Environmental Management

1400 Coliseum Boulevard

Montgomery, AL 36110-2059

(334) 271-7700

Attachment 1: Limitation Violations

<u>Monitoring Period</u>	<u>Parameter</u>	<u>Description</u>	<u>Unit</u>	<u>Limit</u>	<u>Reported Value</u>
April 2010	Dissolved Oxygen	Daily Minimum	mg/L	5.0	1.8
April 2010	pH	Daily Minimum	s.u.	6.0	3.2
August 2010	pH	Daily Minimum	s.u.	6.0	5.9
August 2010	CBOD	Monthly Average	mg/L	20.0	41.0
August 2010	CBOD	Weekly Average	mg/L	30.0	75.5
October 2010	CBOD	Monthly Average	mg/L	20.0	22.5
November 2010	TSS	Monthly Average	mg/L	30.0	34.2
November 2010	NH3-N	Monthly Average	lbs/day	0.3	0.5
November 2010	NH3-N	Weekly Average	lbs/day	0.4	0.9
November 2010	NH3-N	Monthly Average	mg/L	2.2	7.1
November 2010	NH3-N	Weekly Average	mg/L	3.3	11.9
November 2010	CBOD	Monthly Average	lbs/day	2.5	3.6
November 2010	CBOD	Weekly Average	lbs/day	3.8	4.0
November 2010	CBOD	Monthly Average	mg/L	20.0	47.7
November 2010	CBOD	Weekly Average	mg/L	30.0	53.7
December 2010	pH	Daily Maximum	s.u.	8.5	8.8
December 2010	TSS	Monthly Average	mg/L	30.0	76.7
December 2010	TSS	Weekly Average	mg/L	45.0	81.3
December 2010	NH3-N	Monthly Average	lbs/day	0.3	0.4
December 2010	NH3-N	Weekly Average	lbs/day	0.4	0.6
December 2010	NH3-N	Monthly Average	mg/L	2.2	50.9
December 2010	NH3-N	Weekly Average	mg/L	3.3	77.6
December 2010	CBOD	Monthly Average	mg/L	20.0	63.2
December 2010	CBOD	Weekly Average	mg/L	30.0	93.4
December 2010	CBOD % Removal	Monthly Average Minimum	%	85.0	0
January 2011	pH	Daily Maximum	s.u.	8.5	8.6
January 2011	NH3-N	Monthly Average	lbs/day	0.3	1.0
January 2011	NH3-N	Weekly Average	lbs/day	0.4	1.4
January 2011	NH3-N	Monthly Average	mg/L	2.2	13.1
January 2011	NH3-N	Weekly Average	mg/L	3.3	18.6
February 2011	Dissolved Oxygen	Daily Minimum	mg/L	5.0	3.7
February 2011	TSS	Monthly Average	lbs/day	3.8	5.9
February 2011	TSS	Weekly Average	lbs/day	5.6	8.5
February 2011	TSS	Monthly Average	mg/L	30.0	78.9
February 2011	TSS	Weekly Average	mg/L	45.0	113.8
February 2011	NH3-N	Monthly Average	lbs/day	0.3	2.4
February 2011	NH3-N	Weekly Average	lbs/day	0.4	2.8
February 2011	NH3-N	Monthly Average	mg/L	2.2	31.9
February 2011	NH3-N	Weekly Average	mg/L	3.3	37.7
March 2011	pH	Daily Minimum	s.u.	6.0	5.6
March 2011	TSS	Monthly Average	lbs/day	3.8	7.8
March 2011	TSS	Weekly Average	lbs/day	5.6	8.8
March 2011	TSS	Monthly Average	mg/L	30.0	103.5
March 2011	TSS	Weekly Average	mg/L	45.0	117.0
March 2011	NH3-N	Monthly Average	lbs/day	0.3	0.4
March 2011	NH3-N	Weekly Average	lbs/day	0.4	0.5
March 2011	NH3-N	Monthly Average	mg/L	2.2	5.1
March 2011	NH3-N	Weekly Average	mg/L	3.3	6.7
March 2011	Fecal Coliform	Daily Maximum	col/100mL	2000	3340

Monitoring Period	Parameter	Description	Unit	Limit	Reported Value
April 2011	TSS	Monthly Average	mg/L	30.0	47.3
April 2011	TSS	Weekly Average	mg/L	45.0	53.0
April 2011	NH3-N	Monthly Average	lbs/day	0.3	1.2
April 2011	NH3-N	Weekly Average	lbs/day	0.4	1.3
April 2011	NH3-N	Monthly Average	mg/L	2.2	16.0
April 2011	NH3-N	Weekly Average	mg/L	3.3	17.0
May 2011	TSS	Monthly Average	mg/L	30.0	34.2
May 2011	NH3-N	Monthly Average	lbs/day	0.3	0.36
May 2011	NH3-N	Weekly Average	lbs/day	0.4	0.42
May 2011	NH3-N	Monthly Average	mg/L	2.2	4.8
May 2011	NH3-N	Weekly Average	mg/L	3.3	5.6
June 2011	pH	Daily Minimum	s.u.	6.0	3.3
June 2011	TSS	Monthly Average	lbs/day	3.8	5.2
June 2011	TSS	Weekly Average	lbs/day	5.6	6.3
June 2011	TSS	Monthly Average	mg/L	30.0	69.8
June 2011	TSS	Weekly Average	mg/L	45.0	84.5
June 2011	Fecal Coliform	Monthly Average	col/100mL	200	971
June 2011	Fecal Coliform	Daily Maximum	col/100mL	2000	5900
July 2011	TSS	Monthly Average	lbs/day	3.8	5.0
July 2011	TSS	Weekly Average	lbs/day	5.6	7.9
July 2011	TSS	Monthly Average	mg/L	30.0	66.7
July 2011	TSS	Weekly Average	mg/L	45.0	105.0
July 2011	Fecal Coliform	Daily Maximum	col/100mL	2000	8000
August 2011	pH	Daily Minimum	s.u.	6.0	5.3
August 2011	TSS	Monthly Average	lbs/day	3.8	4.2
August 2011	TSS	Weekly Average	lbs/day	5.6	5.8
August 2011	TSS	Monthly Average	mg/L	30.0	54.9
August 2011	TSS	Weekly Average	mg/L	45.0	76.8
August 2011	TSS % Removal	Monthly Average Minimum	%	85.0	80.9
September 2011	pH	Daily Minimum	s.u.	6.0	2.4
September 2011	TSS	Monthly Average	mg/L	30.0	38.0
September 2011	TSS	Weekly Average	mg/L	45.0	64.4
October 2011	pH	Daily Minimum	s.u.	6.0	5.6
October 2011	TSS	Monthly Average	mg/L	30.0	42.6
October 2011	TSS	Weekly Average	mg/L	45.0	50
October 2011	Fecal Coliform	Monthly Average	col/100mL	1000	1624
November 2011	pH	Daily Minimum	s.u.	6.0	3.8
December 2011	pH	Daily Minimum	s.u.	6.0	3.2
January 2012	pH	Daily Minimum	s.u.	6.0	4.0
January 2012	TSS	Monthly Average	mg/L	30.0	45.4
January 2012	TSS	Weekly Average	mg/L	45.0	46.0
February 2012	pH	Daily Minimum	s.u.	6.0	5.3
February 2012	TSS	Monthly Average	mg/L	30.0	39.0
March 2012	TSS	Monthly Average	lbs/day	3.8	7.9
March 2012	TSS	Weekly Average	lbs/day	5.6	11.3
March 2012	TSS	Monthly Average	mg/L	30.0	104.8
March 2012	TSS	Weekly Average	mg/L	45.0	151.0
April 2012	DO	Daily Minimum	mg/L	5.0	1.4
April 2012	TSS% Removal	Monthly Average Minimum	%	85.0	54.0
May 2012	NH3-N	Monthly Average	mg/L	2.2	3.5

Red Level AL0044148
Attachment 2
Penalty Synopsis Worksheet

Violation	Number of Violations	Seriousness of Violation & Base Penalty*	Standard of Care*	History of Previous Violations*
Effluent Violations	93	\$25,600.00	\$0.00	\$4,650.00
Failure to Report	1	\$300.00	\$150.00	\$250.00
Failure to Monitor	1	\$300.00	\$150.00	\$250.00
Totals:	95	\$26,200.00	\$300.00	\$5,150.00
Economic Benefit*:				\$0.00
Mitigating Factors:				\$0.00
Ability to Pay*:				(\$16,650.00)
Other Factors*:				\$0.00
Final Penalty:				\$15,000.00

* Refer to the "Findings" of the Order for a description of each penalty factor

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