



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

February 5, 2021

DMS NOTICE
P – 21 – 01
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS
SUBJECT: Settlement – Challenger

A Final Judgement and Permanent Injunction to Stipulation was issued against Challenger Tank Lines, Inc., (“Challenger”). The case was filed November 4, 2020 by the Orange County District Attorney’s Office due to Challenger violating California’s Business and Professions Code (BPC) Section (§) 13502 – delivering product into a storage tank or container other than the product identified on the label attached to the storage tank or container – and BPC § 13451 - selling or delivering product purported to be “compression-ignition fuel,” “diesel fuel,” “kerosene,” or “fuel oil” not complying with applicable ASTM specifications.

Challenger is permanently enjoined and restrained under BPC §§ 17203 and 17535 from engaging in any of the above acts or practices identified in BPC §§ 13502 and 13451.

The California Department of Food and Agriculture, Division of Measurement Standards (CDFA DMS) worked with the Orange County Department of Weights and Measures and the Orange County District Attorney’s Office on this case.

The total settlement was \$24,564.26. Civil penalties assessed was \$7,880.00 payable to the Orange County District Attorney’s Office. The total investigative costs were \$16,684.26; Orange County Weights and Measures’ investigative costs were \$4,750.00 and the CDFA DMS’ investigative costs were \$11,934.26.

The CDFA DMS appreciates the fine work performed by the Orange County Department of Weights and Measures, Orange County District Attorney’s Office, and the DMS’ investigators that documented and caused to be prosecuted these violations.

If you have questions, please contact John Larkin, DMS Supervising Special Investigator, Petroleum Enforcement Program at 916-229-3000 or john.larkin@cdfa.ca.gov

Sincerely,

Kristin J. Macey

Director

Enclosure

cc: Hyrum Eastman, County/State Liaison, CDFA



SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: The People of the State of California vs. Challenger Tank Lines, Inc.**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC
SERVICE****CASE NUMBER:
30-2020-01168435-CL-BT-CJC**

I certify that I am not a party to this cause. I certify that the following document(s), Judgment dated 11/04/20, have been transmitted electronically by Orange County Superior Court at Santa Ana, CA. The transmission originated from Orange County Superior Court email address on November 4, 2020, at 3:52:24 PM PST. The electronically transmitted document(s) is in accordance with rule 2.251 of the California Rules of Court, addressed as shown above. The list of electronically served recipients are listed below:

TODD SPITZER, DISTRICT ATTORNEY
PRISCILLA.CLOUD@DA.OCGOV.COM

Clerk of the Court, by: *imuldacyn*, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

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TODD SPITZER, District Attorney
County of Orange, State of California
By: **PRISCILLA CLOUD** (SBN 98940)
Deputy District Attorney
Consumer Protection Unit
Post Office Box 808
Santa Ana, CA 92702
Telephone: (714) 834-3600

Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 04 2020

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CENTRAL JUSTICE CENTER

THE PEOPLE OF THE STATE OF CALIFORNIA,)
)
Plaintiff,)
)
)
vs.)
)
CHALLENGER TANK LINES, INC.,)
)
Defendant.)
)
)

Case No. 30-2020-01168435

~~PROPOSED~~ FINAL JUDGMENT

The plaintiff, the People of the State of California, appearing through its attorney Todd Spitzer, District Attorney of the County of Orange, by Priscilla Cloud, Deputy District Attorney, and the defendant, Challenger Tank Lines, Inc., (“Challenger,”) appearing through its attorney Tyler Brown, Attorney at Law, having stipulated and consented to the entry of Judgment without the defendant admitting any wrongdoing, without the taking of proof and without this Final Judgment constituting any admission by the defendant as to any issue of law or fact alleged in the Complaint, and the Court having considered the matter and the pleadings, and good cause appearing, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

VENUE AND JURISDICTION

1. This Court has jurisdiction of the subject matter and the parties.
2. Venue as to all matters between these parties lies in this Court.

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APPLICABILITY

3. The injunctive provisions of this Judgment are applicable to the defendant, Challenger, and to all principals, employees, representatives, successors, and all persons, corporations or other entities acting by, through, or on behalf of the defendant and to all employees, representatives, persons, corporations or other entities acting in concert with, or participating with the defendant with actual or constructive knowledge of this Final Judgment.

INJUNCTION

4. The defendant, Challenger, is hereby permanently enjoined and restrained under Business and Professions Code sections 17203 and 17535 from engaging in any of the following acts or practices in the State of California:

A. Failing to abide by each and every provision of Business and Professions Code section 13502 concerning delivering into a storage tank or container at any place where products referred to in Chapter 14 of the Business and Professions Code are stored for sale, any product other than the product identified on the label attached to the storage tank or container.

B. Failing to abide by each and every provision of Business and Professions Code section 13451 by selling or delivering to any premises for the purpose of sale, any product as or purported to be "compression-ignition engine fuel, "diesel fuel," "kerosene," or "fuel oil" unless the product conforms to the specifications of Article 6, Chapter 14, Division 5 of the Business and Professions Code.

5. Any successor statute or renumbered statute will have the same force and effect as the statutes cited in this Final Judgment.

PENALTIES AND COSTS

6. Pursuant to California Business and Professions Code sections 17206 and 17536, the defendant shall pay the sum of **SEVEN THOUSAND EIGHT HUNDRED EIGHTY DOLLARS (\$7,880.00)** as a Civil Penalty. Payment shall be in the form of a **cashier's check** made payable to **The County of Orange**. Payment shall be made prior to the

1 presentation of this Proposed Final Judgment and is to be held by the Orange County District
2 Attorney's Office pending Court approval of this settlement.

3 7. The defendant shall pay the sum of **FOUR THOUSAND SEVEN HUNDRED FIFTY**
4 **DOLLARS (\$4750.00)** for costs of investigation by the County of Orange Department of
5 Weights and Measures. Payment shall be in the form of a **cashier's check** made payable to
6 **The Orange County Treasurer**. Payment is due on November 20, 2020.

7 8. The defendant shall pay the sum of **ELEVEN THOUSAND NINE HUNDRED**
8 **THIRTY FOUR DOLLARS AND TWENTY-SX CENTS (\$11,934.26)** for costs of
9 investigation by the California Department of Food and Agriculture, Division of Measurement
10 Standards. Payment shall be in the form of a **cashier's check** made payable to **DMS -**
11 **Reimb50**. Payment is due on December 20, 2020.

12 9. All payments shall be delivered via **courier or Fedex** to the following address:

13 Orange County District Attorney's Office
14 Consumer Protection Unit
15 300 North Flower Street
16 Santa Ana, California 92703
17 **Attention: Judith Yopez**

18 10. Nothing in this Final Judgment affects, supplants or curtails any individual
19 consumer's right to pursue independently any claims against the defendant.

20 **DISCLAIMER OF ADMISSION OF LIABILITY**

21 11. The Final Judgment and the defendant's agreement are not and shall not be
22 construed as evidence of an admission, or as an admission by the defendant of any fact, issue of
23 law or violation of law raised by the Complaint filed in this action.

24 **NO PRESUMPTIONS AGAINST DRAFTER**

25 12. If an ambiguity requiring interpretation arises regarding any provision of this
26 Final Judgment, there is no presumption that documents should be interpreted against any
27 party. The presumption set forth in Civil Code section 1654 is not applicable.

28 13. The failure of the plaintiff to enforce any provision of this Final Judgment shall
not be deemed a waiver of such provision nor shall it in any way affect the validity of this Final

1 Judgment. The failure of the plaintiff to enforce any provision shall not preclude the plaintiff
2 from later enforcing the same or other provisions of this Final Judgment.

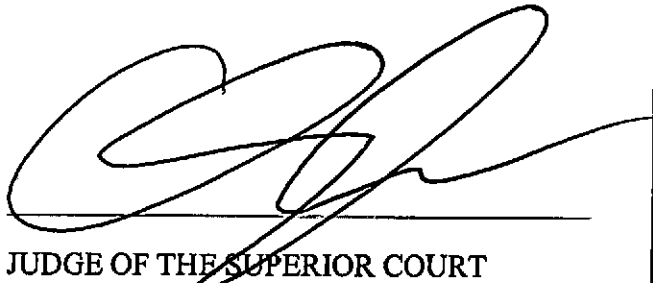
3 **RETENTION OF JURISDICTION**

4 14. Jurisdiction is retained for the purpose of enabling any party to this Final
5 Judgment to apply to the Court at any time for such orders and directions as may be necessary
6 and appropriate for the construction of or the carrying out of this Final Judgment, for the
7 modification or termination of any injunctive provisions, for the enforcement of compliance
8 and for punishment of violations.

9 15. Except as otherwise expressly provided herein, each party shall bear its own
10 attorney's fees and costs.

11 16. The clerk is ordered to enter this Final Judgment, and this Final Judgment shall
12 take effect immediately upon entry.

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15 DATED: NOV 04 2020



JUDGE OF THE SUPERIOR COURT

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18 JUDGE COREY S. CRAMIN
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