

STATE OF MISSISSIPPI  
MISSISSIPPI INSURANCE DEPARTMENT  
LIQUEFIED COMPRESSED GAS BOARD

IN RE: MR. JOSEPH BAYGENTS AND HERRING GAS COMPANY, INC.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
FINAL ADMINISTRATIVE ORDER

THIS MATTER came for hearing before the State Liquefied Compressed Gas Board ("Board"), on March 13, 2014, in the offices of the State Fire Academy in Pearl, Rankin County, Mississippi, on the Notice of Hearing and Statement of Charges against Mr. Joseph Baygents (Baygents) and Herring Gas Company, Permit No. 888 (Herring). Mr. Baygents did not appear. Herring was represented by Eddie Stebbins, Vice-President of Operations, and Mr. Tommy Smallwood, Vice-President of Fleet and Safety. The Board, finding that it has jurisdiction over the parties and the subject matter (Exhibits S-1 and S-2), in accordance with Title 19, Part 1, Chapter 15 - Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department, and being fully advised in the premises, makes the following findings of fact and conclusions of law:

AUTHORITY

The hearing was held pursuant to Miss Code Ann § 75-57-101, *et seq.*, (Rev. 2012), providing for the promulgation and enforcement of regulations by the State Liquefied Compressed Gas Board, and specifically under Miss. Code Ann. § 75-57-107 (Rev. 2012) which provides that the Board is authorized to impose monetary penalties and take other disciplinary action.

## FINDINGS OF FACT

1.

Based upon an investigation conducted by LC Gas Inspector Scotty Cuevas (Cuevas) (Exhibits S-3, S-4), Herring was charged with violating the following Mississippi Insurance Department Rules & Regulations:

1. Violation #1 there were uncapped outlets in violation of NFPA Rule 54, Section 7.7.2.1;
2. Violation #2 failure to perform Leak Checks on any interruption of service to an existing system or first time service to a new customer in violation of Mississippi Insurance Department Bulletin 2010-4, "Leak Checks", Paragraph I;
3. Violation #3 The Cylinder was too close to an ignition source in violation of NFPA Rule 58, Section 6.3.9;
4. Violation #4 The Cylinder was not properly painted in violation of NFPA Rule 58, Section 6.6.1.4.

Each charge will be addressed individually as follows:

2.

Violation #1, Cuevas, using a floor drawing and a picture of the open outlet, testified that:

- a. Two uncapped outlets were in the home,
- b. One outlet was closed,
- c. One outlet was open per a picture of the open outlet. (Exhibit S-4, items tabbed as #1)

3.

Violation #2, Cuevas testified that:

- a. The "Herring Gas Company" ticket showed the tank read "0" and received 50 gallons,
- b. The Herring Gas Company Short Form #154485, indicated a Gas check had been

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successfully completed (System OK),

- c. There was no way a successful leak check could be conducted with an open outlet as testified to in Para. 2 above.

(Exhibit S-4, items tabbed as #2)

4.

Violation #3, Cuevas testified that:

- a. Upon his visual inspection the tank was too close to an ignition source, an air conditioning unit. (Exhibit S-4, item tabbed as #3)

5.

Violation #4, Cuevas testified that:

- a. The tank was unpainted and rusty.

(Exhibit S-4, item tabbed as #4)

6.

The investigation confirmed that Baygents, working for Herring, delivered gas to 723 Lavelle Ladner Road, Lumberton, MS 39455 on December 26, 2013. (Exhibit S-4)

7.

Mrs. Lorena Shedd resides at to 723 Lavelle Ladner Road, Lumberton, MS 39455. (Exhibit S-4)

8.

Baygents employment with Herring was terminated shortly after this incident. (Herring Testimony)

9.

Herring admitted to all the above conditions and violations. (Herring Testimony)

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CONCLUSIONS OF LAW

10.

Per Miss. Code Ann. § 75-57-9, Standards of the National Fuel Gas Code as published by the National Fire Protection Association NFPA-54; Standards for the Storage and handling of Liquefied Petroleum Gas as published by the National Fire Protection Association NFPA-58; (among other national codes and standards specified therein) are adopted by reference as specifications for the purpose of material standards, construction, handling, transportation and installation of all liquefied compressed gas systems and inspection and operation of pressure vessels. Consequently, a violation of the provisions of NFPA-54 and NFPA-58 constitute violations of Miss. Code Ann. §75-57-9.

11.

Herring and Baygents violated Miss. Code Ann. § 75-57-9 by failing to meet the above standards as set forth in Charges 1 through 4.

12.

The aforementioned violations by Herring and Baygents constitute sufficient grounds for the imposition of disciplinary action per Miss. Code Ann. §§ 75-57-105 & 75-57-107.

FINAL ADMINISTRATIVE ORDER

IT IS ORDERED that the following monetary penalties be imposed on Herring:

(a) Monetary Penalties:

VIOLATION	FINE	SUSPENDED	To Be Paid
Violation #1 there were uncapped outlets in violation of NFPA Rule 54, Section 7.7.2.1;	\$1,000	\$500	\$500
Violation #2 failure to perform Leak Checks on any interruption of service to an existing system or first time service to a new customer in violation of Mississippi Insurance Department Bulletin 2010-4, "Leak Checks", Paragraph I,;	\$1,000	\$500	\$500
Violation #3 The Cylinder was too close to the ignition source in violation of NFPA Rule 58, Section 6.3.9;	\$500	\$500	0
Violation #4 The Cylinder was not properly painted in violation of NFPA Rule 58, Section 6.6.1.4.	\$500	\$500	0
			\$1,000

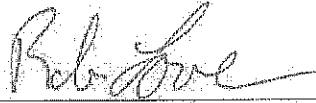
(b) Should Herring fail to comply with the Mississippi Rules and Regulations for which it is cited herein during the next twelve (12) months, it shall be noticed for an additional hearing and the suspended monetary penalty shall immediately become due and payable to the Mississippi Insurance Department. The remaining One Thousand Dollars (\$1,000.00) penalty shall be payable to the Mississippi Insurance Department, within thirty (30) days of this Order.

(c) Mr. Baygents Driver/Installer Certificate is hereby revoked. Due to the fact that Herring terminated Mr. Baygents' employment no additional action will be taken against him; however, Herring is directed to collect Mr. Baygents' Driver/Installer Certificate and deliver it to the Liquefied Compressed Gas Board, Mississippi Insurance Department

within thirty (30) days of this Order.

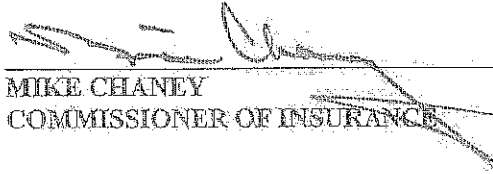
(d) This Order shall be effectuated after proper service upon or delivery to each Mr. Baygents and Herring in accordance with Title 19, Part 1, Chapter 15 - Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department

SO ORDERED, this the 24<sup>th</sup> day of March, 2014.



ROB LOVE, CHAIRMAN  
LIQUEFIED COMPRESSED GAS BOARD

APPROVED BY:



MIKE CHANEY  
COMMISSIONER OF INSURANCE

Prepared by:

John W. Eads  
Special Assistant Attorney General