

STATE OF MISSISSIPPI
MISSISSIPPI INSURANCE DEPARTMENT
LIQUEFIED COMPRESSED GAS BOARD

IN RE: MR. FRANK CHILDRESS AND LOCAL LP GAS COMPANY

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
FINAL ADMINISTRATIVE ORDER

THIS MATTER came for hearing before the State Liquefied Compressed Gas Board ("Board"), on July 9, 2015, in the offices of the State Fire Academy in Pearl, Rankin County, Mississippi, on the Notice of Hearing and Statement of Charges against Mr. Frank Childress (Childress) and Local LP Gas Company, Permit No. 1186 (Local). Mr. Childress represented himself and Mr. Terry Kelly, President of Local LP Gas, was represented by Counsel, Mr. Greg Copeland and Mr. Glenn Taylor, of Copeland, Cook, Taylor and Bush, P.A.. 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. 2009), 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. 2009) 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 Division Executive Director Scotty Cuevas (Cuevas) (Exhibits S-3, S-4), Childress and Local were charged with violating the following Mississippi Insurance Department Rules & Regulations:

1. Violation #1- 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, and NFPA Rule 54, Section 8.2.3;
2. Violation #2- There was an uncapped outlet on the premises in violation of NFPA Rule 54, Section 7.7.2.1;
3. Violation #3- A single stage regulator was installed on the outdoor storage tank in violation of NFPA Rule 58, Section 6.8.2(B);

The Notices of Hearing listed a Violation #4 but upon further review it was found that grounds did not exist for consideration by the LC Gas Board. (Exhibits S-1 & S-2)

Each charge will be addressed individually as follows:

2.

Violation #1, failure to perform leak check:

- a. Childress pumped 50 Gallons into the Sherman's 150 Gallon tank. (Exhibit S-6 and Childress Testimony)
- b. Childress did not hear any gas going in and assumed it had over 10%. (Exhibit S-6 and Childress Testimony)
- c. 50 gallons would indicate a minimum of 33% on the tank gauge. (Cuevas Testimony)
- d. Upon arrival at the scene the responding fire department shut off the gas supply line.

(Cuevas Testimony)

- e. After the explosion and fire the tank gauge indicated 22%. (Exhibit S-4 and S-9).
- f. Childress did not look at the tank gauge at any time. (Exhibit S-6 and Childress Testimony)
- g. Childress did not conduct a leak check. (Exhibit S-6 and Childress Testimony)
- h. Local maintains that there could have been gas in the tank obviating the need to conduct a leak check. (Local Testimony)

3.

Violation #2, uncapped outlet:

- a. Out of four outlets in the home, one was uncapped. (Exhibit S-12, S-13, Cuevas Testimony),
- b. After detaching a hot water heater for the piping system, someone unsuccessfully attempted to close the line by crimping the pipe. It is not known who or when this was done. (Cuevas Testimony)
- c. The uncapped outlet was the source of gas that led to the explosion and subsequent fire. (Cuevas Testimony)
- d. The uncapped outlet would have been discovered if a proper leak check had been conducted by Childress. (Cuevas Testimony)

Violation #3, single stage regulator was installed:

- a. A single stage regulator was installed on the tank. (Exhibit S-9)
- b. As directed by NFPA Rule 58, 6.8.2(B) single stage regulators were not to be installed in fixed piping systems after June 30, 1997. (Exhibit S-14)

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- c. Local LP Gas provided a copy of the Tank Agreement and Tank Manufacturer Form U-1A to Cuevas. (Cuevas Testimony)
- d. The tank specified in the Tank Manufacturer Form was built in 1969. (Exhibit S-18)
- e. The Tank Agreement shows that Pat Sherman, mother of the late Mr. Therrion Sherman, entered into the contract on July 21, 1999. (Exhibit S-17)
- f. There is no signature or identification as to the "Company" on the Tank Agreement but the document was provided to Cuevas by Local LP Gas. (Cuevas Testimony)
- g. Upon questioning Cuevas pointed out in the Tank Agreement where the owner of the property, Pat Sherman, consented to the installation of the tank on July 21, 1999. (Cuevas Testimony)
- h. Local maintains that the tank could have been installed at that location prior to the NFPA Rule effectuation mentioned above and therefore it would not have been in violation. (Local Testimony).

4.

Childress, working for Local, delivered gas to 924 Coyt Brooks Road, Lucedale, MS 39452 on December 13, 2014. (Exhibit S-4)

5.

Childress' employment with Local was terminated after this incident. Local also took possession of the key to his delivery truck, removed the gas from his bulk plant, and took possession of his driver/installer permit. (Local Testimony)

7.

Local has taken the following actions to prevent future incidents such as this:

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- a. Implementing a new ticket process where the delivery person notates the amount of gas shown on the tank gauge before and after filling as well as the time of delivery,
- b. Conducted a review of leak check safety procedures for all delivery personnel,
- c. Implementing audit procedures whereby deliveries will be randomly checked for adherence to proper delivery and safety procedures,
- d. Conducting an inventory of all tanks to identify which tanks require replacement of single stage regulators,
- e. Phase-out contract delivery drivers,
- f. The goal is to complete this process within 8 months.

(Local Testimony)

CONCLUSIONS OF LAW

8.

Per Miss. Code Ann. § 75-57-9 (Rev. 2009) 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 (Rev. 2009).

9.

Local and Childress violated Miss. Code Ann. § 75-57-9 (Rev. 2009) by failing to meet the

above standards.

10.

The aforementioned violations by Local and Childress constitute sufficient grounds for the imposition of disciplinary action per Miss. Code Ann. §§ 75-57-105 & 75-57-107 (Rev. 2009).

FINAL ADMINISTRATIVE ORDER

IT IS ORDERED that the following monetary penalties be imposed on Childress and Local:

(a) Monetary Penalties:

CHILDRESS

Violation	Fine	Suspended	Suspension Period	Suspension Terms
Violation #1 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, and NFPA Rule 54, Section 8.2.3;	\$1,000	\$1,000	12 months from the date of this Order	Mr. Childress is not to work or be involved in the LC Gas/Propane business in any form for 12 months from the date of this order. If he is found to violate this condition the fines will become due and payable immediately in addition to any other fines as determined by a new hearing for violation of this Order.
Violation #2 there were uncapped outlets in violation of NFPA Rule 54, Section 7.7.2.1;	\$1,000	\$1,000	12 months from the date of this Order	Mr. Childress is not to work or be involved in the LC Gas/Propane business in any form for 12 months from the date of this order. If he is found to violate this condition the fines will become due and payable immediately in addition to any other fines as determined by a new hearing for violation of this Order.
Violation #3 A Single Stage Regulator was installed on the outdoor storage tank in violation of NFPA Rule 58, Section 6.8.2(B);				No culpability and no action taken by the Board

LOCAL

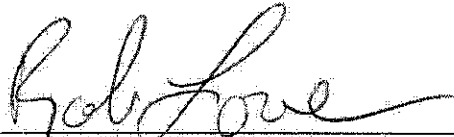
Violation	Fine	Suspended	Suspension Period	Suspension Terms
Violation #1 failure to perform Leak Checks on any interruption of service to an existing system or first time service to a new customer in violation of Mississippi Insurance Department Bulletin 2010-4, "Leak Checks", Paragraph I, and NFPA Rule 54, Section 8.2.3;	\$1,000			
Violation #2 there were uncapped outlets in violation of NFPA Rule 54, Section 7.7.2.1;	\$1,000			
Violation #3 A Single Stage Regulator was installed on the outdoor storage tank in violation of NFPA Rule 58, Section 6.8.2(B);	\$1,000	\$1,000	12 months from the date of this Order	Conditioned upon Local LP Gas notifying the LC Gas Board of the completion of their corrective measures in Para. 7 designed to prevent future incidents such as what transpired in this instance no later than 12 months from the date of this Order.

(b) Mr. Childress Driver/Installer Certificate is hereby revoked in accordance with Miss. Code Ann. § 75-57-47(5) (Rev. 2009). Due to the fact that Local terminated Mr. Childress' employment no additional action beyond this revocation and the fines listed above will be taken against him; however, Local is directed to collect Mr. Childress' Driver/Installer Certificate and deliver it to the Liquefied Compressed Gas Board, Mississippi Insurance Department within thirty (30) days of this Order.

(c) In view of Local's willingness to accept responsibility and work with the board to prevent any future violations the fine for Violation #3 shall be suspended for 12 months from the date of this order. If during that time Local is charged with and, after a hearing, found guilty of an additional violations the fine shall be immediately due and payable in addition to any new violations.

- (d) Local shall notify the LC Gas Board in writing the status of those corrective actions listed in Paragraph 7 no later than 12 (twelve) months from the date of this Order.
- (e) During the twelve (12) month period following the date of this Order should Childress or Local fail to comply with the Mississippi Rules and Regulations for which they are cited herein they shall be noticed for an additional hearing and any suspended monetary penalty shall immediately become due and payable to the Mississippi Insurance Department.
- (f) The penalties due from Local, totaling Two Thousand Dollars (\$2,000.00), shall be payable to the Mississippi Insurance Department, within thirty (30) days of this Order.
- (g) This Order shall be effectuated after proper service upon or delivery to each Mr. Childress and Local 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 16TH day of July, 2015.



ROB LOVE, CHAIRMAN
LIQUEFIED COMPRESSED GAS BOARD

APPROVED BY:



MIKE CHANEY
COMMISSIONER OF INSURANCE

Prepared by:



John W. Fads
Special Assistant Attorney General