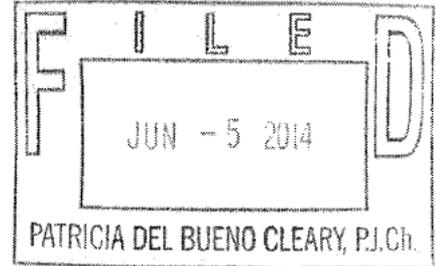


JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for Plaintiffs



By: Glenn T. Graham (013822009) / Jeffrey Koziar (015131999)  
Deputy Attorneys General  
[REDACTED]

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MONMOUTH COUNTY  
DOCKET NO. MON-C-80-13 & C-190-13

JOHN J. HOFFMAN, Acting Attorney General of the State of New Jersey, STEVE C. LEE, Acting Director of the New Jersey Division of Consumer Affairs, and HOWARD PINE, Acting Superintendent of the State of New Jersey, Office of Weights and Measures,

Plaintiffs,

Civil Action

v.

PASMEL PROPERTY, INC.; DANINKA FUEL, INC. d/b/a GETTY; MANTUA PIKE LUKOIL, INC. d/b/a EXPRESS FUEL OF TRENTON; ELM - ST. GEORGE S/S INC. d/b/a KEYPORT DELTA; EVERGREEN LUKOIL INC. d/b/a MANASQUAN LUKOIL; LAWRENCEVILLE LUKOIL, INC.; SCOTCH PLAINS LUKOIL, INC.; LEE TRANSPORT SYSTEMS, LLC; AND ZEPHYR OIL AND GAS, LLC; JANE AND JOHN DOES 1-10, individually and as owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors of PASMEL PROPERTY, INC.; DANINKA FUEL, INC. d/b/a GETTY; MANTUA PILE LUKOIL, INC. d/b/a EXPRESS FUEL OF TRENTON; ELM - ST. GEORGE S/S INC. d/b/a KEYPORT DELTA; EVERGREEN LUKOIL INC. d/b/a MANASQUAN LUKOIL; LAWRENCEVILLE LUKOIL, INC.; SCOTCH PLAINS LUKOIL, INC.; LEE TRANSPORT SYSTEMS, LLC; AND ZEPHYR OIL AND GAS, LLC and XYZ CORPORATIONS 1-10,

Defendants.

PASMEL PROPERTY, INC.; DANINKA FUEL, INC. d/b/a GETTY; MANTUA PIKE LUKOIL, INC. d/b/a EXPRESS FUEL OF TRENTON; ELM - ST. GEORGE S/S INC. d/b/a KEYPORT DELTA; EVERGREEN LUKOIL INC. d/b/a MANASQUAN LUKOIL; LAWRENCEVILLE LUKOIL, INC.; SCOTCH PLIAN LUKOIL, INC,

Defendants / Third-Party Plaintiffs

v.

ZEPHYR OIL AND GAS, LLC, a Foreign LLC; INTERNATIONAL-MATEX TANK TERMINALS; DANIEL COHEN; CCM HOLDINGS; WILLIAM NAPPO,

Third-Party Defendants.

FINAL  
CONSENT  
ORDER AS TO  
PASMEL  
PROPERTY,  
INC.,  
DANINKA  
FUEL, INC.,  
MANTUA  
PIKE  
LUKOIL, INC.,  
ELM - ST.  
GEORGE S/S  
INC.,  
EVERGREEN  
LUKOIL INC.,  
LAWRENCE-  
VILLE  
LUKOIL, INC.,  
AND SCOTCH  
PLAINS  
LUKOIL, INC.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
UNION COUNTY  
DOCKET NO. UNN-L-4377-12

PASMEL PROPERTY INC.,

Plaintiff,

Civil Action

v.

ZEPHYR OIL & GAS, LLC, a Foreign LLC; INTERNATIONAL-  
MATEX TANK TERMINALS; DANIEL COHEN; CCM  
HOLDINGS; WILLIAM NAPPO and ABC 1-20 (fictitious entities),

Defendants.

ZEPHYR OIL & GAS, LLC, a Foreign LLC,

Defendant/ Third-Party Plaintiff,

v.

MICHAEL PASINKOVSKY, individually,

Third-Party Defendant.

The parties to this Action and Final Consent Order (“Consent Order”) are plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey, Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs, and Howard Pine, Acting Superintendent of the State of New Jersey, Office of Weights and Measures (collectively, “Plaintiffs”),<sup>1</sup> and

<sup>1</sup> This action was commenced on behalf of Jeffrey S. Chiesa, former Attorney General of the State of New Jersey, Eric T. Kanefsky, former Director of the New Jersey Division of Consumer Affairs, and Robert J. Campanelli, former Acting Superintendent of the State of New

defendants Pasmel Property, Inc. ("Pasmel"), Daninka Fuel, Inc. d/b/a Getty, Mantua Pike Lukoil, Inc. d/b/a Express Fuel of Trenton, Elm – St. George S/S Inc. d/b/a Keyport Delta, Evergreen Lukoil Inc. d/b/a Manasquan Lukoil, Lawrenceville Lukoil, Inc. and Scotch Plains Lukoil, Inc. (collectively, "Pasmel Defendants"). As evidenced by their signatures below, the Parties<sup>2</sup> do consent to the entry of this Consent Order and its provisions without trial or adjudication of any issue of fact or law, and without an admission of any liability or wrongdoing of any kind.

### PRELIMINARY STATEMENT

Plaintiffs commenced this Action on May 20, 2013, alleging that Pasmel Defendants violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations"), the Weights and Measures Act, N.J.S.A. 13:45A-9.1 et seq., the Motor Fuels Act, N.J.S.A. 56:6-1 et seq., and the Regulations Governing the Retail Sales of Motor Fuels, N.J.A.C. 18:19-1.1 et seq. ("Motor Fuels Regulations") through their Advertisement, distribution, offer for Sale and/or Sale to Consumers of 100 octane aviation gasoline ("Aviation Fuel") that was misrepresented as traditional grades of fuel being sold for motor vehicle use. Specifically, Plaintiffs alleged that, from approximately December 6, 2012 through December 8, 2012, Pasmel Defendants permitted the delivery of Aviation Fuel to its retail gasoline stations and then advertised, offered for sale and/or sold it as regular gasoline, plus gasoline and/or premium gasoline. Pasmel Defendants deny the allegations.

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Jersey, Office of Weights and Measures. Pursuant to R. 4:34-4, the caption has been revised to reflect the current Acting Attorney General, Acting Director and Acting Superintendent.

<sup>2</sup> Plaintiffs and Pasmel Defendants are collectively referred to as "Parties."

The Court has reviewed the terms of this Consent Order and based upon the Parties' agreement and for good cause shown:

**IT IS HEREBY ORDERED AND AGREED AS FOLLOWS:**

**1. JURISDICTION**

1.1 The Parties admit jurisdiction of this Court over the subject matter and over the Parties for the purpose of entering into this Consent Order. The Court retains jurisdiction for the purpose of enabling the Parties to apply to the Court at any time for such further orders and relief as may be necessary for the construction, modification, enforcement, execution or satisfaction of this Consent Order.

**2. VENUE**

2.1 Pursuant to N.J.S.A. 56:8-8, venue as to all matters between the Parties hereto relating to or arising out of this Consent Order shall lie exclusively in the Superior Court of New Jersey, Chancery Division, Monmouth County.

**3. EFFECTIVE DATE**

3.1 This Consent Order shall be effective on the date that it is entered with the Court ("Effective Date").

**4. DEFINITIONS**

As used in this Consent Order, the following capitalized words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

4.1 "Action" shall refer to the matter titled John J. Hoffman, Acting Attorney General of the State of New Jersey, Steve C. Lee, Acting Director of the New Jersey Division of

Consumer Affairs, and Howard Pine, Acting Superintendent of the State of New Jersey, Office of Weights and Measures v. Pasmel Property, Inc., Daninka Fuel, Inc. d/b/a Getty, Mantua Pike Lukoil, Inc. d/b/a Express Fuel of Trenton, Elm – St. George S/S Inc. d/b/a Keyport Delta, Evergreen Lukoil Inc. d/b/a Manasquan Lukoil, Lawrenceville Lukoil, Inc., Scotch Plains Lukoil, Inc., Lee Transport Systems, LLC, and Zephyr Oil and Gas, LLC, Superior Court of New Jersey, Chancery Division, Monmouth County, Docket No. MON-C-80-13, Consolidated Docket No. MON-C-190-13, and all pleadings and proceedings related thereto, including the Complaint, filed May 20, 2013.

4.2 “Advertisement” shall be defined in accordance with N.J.S.A. 56:8-1(a). For purposes of the Advertising Regulations, “Advertisement” shall be defined in accordance with N.J.A.C. 13:45A-9.1. These definitions apply to other forms of the word “Advertisement” including, without limitation, “Advertise[s]” and “Advertised.”

4.3 “Attorney General” shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

4.4 “Consumer” shall refer to any Person who is offered Merchandise for Sale.

4.5 “Division” or “Division of Consumer Affairs” shall refer to the New Jersey Division of Consumer Affairs.

4.6 “Merchandise” shall be defined in accordance with N.J.S.A. 56:8-1(c) and includes Aviation Fuel.

4.7 “New Jersey” and “State” shall refer to the State of New Jersey.

4.8 “Pasmel Stations” refer to the following motor fuel stations owned and operated by Pasmel in New Jersey: Daninka Fuel, Inc. d/b/a Getty; Mantua Pike Lukoil, Inc. d/b/a

Express Fuel of Trenton; Elm -- St. George S/S Inc. d/b/a Keyport Delta; Evergreen Lukoil Inc. d/b/a Manasquan Lukoil; Lawrenceville Lukoil, Inc.; and Scotch Plains Lukoil, Inc.

4.9 "Person[s]" shall be defined in accordance with N.J.S.A. 56:8-1(d).

4.10 "Restitution" shall refer to all methods undertaken by Pasmel Defendants to resolve Consumer complaints including, but not limited to, the issuance of credits or refunds or the reversal of credit card or debit card charges.

4.11 "Sale" shall be defined in accordance with N.J.S.A. 56:8-1(e).

## **5. INJUNCTIVE RELIEF AND BUSINESS PRACTICES**

5.1 Pasmel Defendants shall not engage in any unfair or deceptive acts or practices in the conduct of any business in the State and shall comply with such State and/or Federal laws, rules and regulations as now constituted or as may hereafter be amended including, but not limited to, the CFA, the Advertising Regulations, the Weights and Measures Act, the Motor Fuels Act and the Motor Fuels Regulations.

5.2 Pasmel Defendants shall not Advertise, offer for Sale, sell and/or distribute Aviation Fuel as traditional grades of motor fuel (e.g. regular gasoline, plus gasoline and/or premium gasoline).

5.3 Pasmel Defendants shall not Advertise, offer for Sale and/or sell Aviation Fuel at the Pasmel Stations or any other retail motor fuel stations in this State.

5.4 Pasmel Defendants shall not be a party to the substitution of one grade of motor fuel for another, in violation of N.J.S.A. 56:6-2(g) and N.J.A.C. 18:19-2.5

5.5 Pasmel Defendants shall not Advertise and offer for Sale unleaded grades of motor fuel, but then actually sell Aviation Fuel or other grades of motor fuel which contain lead.

5.6 Pasmel Defendants shall not Advertise, offer for Sale and/or sell motor fuel without properly identifying the grade of motor fuel being sold.

## 6. SETTLEMENT PAYMENT

6.1 The Parties have agreed to a settlement of the Action in the amount of Eighty-Five Thousand and 00/100 Dollars (\$85,000.00) ("Settlement Payment").

6.2 The Settlement Payment comprises Fifty-Six Thousand Seven Hundred Sixty-Seven and 86/100 Dollars (\$56,767.86) in civil penalties, pursuant to N.J.S.A. 56:8-13, Seven Thousand Five Hundred and 36/100 Dollars (\$7,536.50) in Restitution, pursuant to N.J.S.A. 56:8-14, Seventeen Thousand Two Hundred Seven and 0/100 Dollars (\$17,207.00) in reimbursement of Plaintiffs' attorneys' fees and Three Thousand Four Hundred Eight-Eight and 64/100 Dollars (\$3,488.64) in reimbursement of Plaintiffs' investigative costs, pursuant to N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19.

6.3 Pasmel Defendants shall make the Settlement Payment in installments as follows:

- a. Ten Thousand Six Hundred Twenty-Five and 00/100 Dollars (\$10,625.00) shall be paid on or before the Effective Date; and
- b. The remaining Seventy-Four Thousand Three Hundred Seventy-Five and 00/100 Dollars (\$74,375.00) shall be paid in seven equal installments of Ten Thousand Six Hundred Twenty-Five and 00/1100 Dollars (\$10,625.00) on or before the following dates: September 1, 2014; December 1, 2014; March 1, 2015; June 1, 2015; September 1, 2015; December 1, 2015; and March 1, 2016.

6.4 All payments in satisfaction of the Settlement Payment shall be made by bank check, money order, wire transfer, credit card or other guaranteed funds made payable to "New Jersey Division of Consumer Affairs" and shall be forwarded to the undersigned:

Glenn T. Graham, Deputy Attorney General  
Consumer Fraud Prosecution Section  
State of New Jersey

Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

6.5 Upon making the any payment in satisfaction of the Settlement Payment, Pasmel Defendants shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Plaintiffs pursuant to the terms herein.

#### **7. FORBEARANCE ON EXECUTION AND DEFAULT**

7.1 In the event that Pasmel Defendants fail to make any of the payments referenced in Section 6, all unpaid amounts due and payable under this Consent Order shall be immediately accelerated and due and payable upon written notice by Plaintiffs, with interest calculated in accordance with R. 4:42-11 from the date of default, and with the Plaintiffs' cost of collections. In any such notice, however, Plaintiffs shall provide Pasmel Defendants with the specific details of Pasmel Defendants' alleged noncompliance and Pasmel Defendants shall be afforded a thirty (30) day period within which to cure any such noncompliance. Failure by Pasmel Defendants to cure any such noncompliance shall be considered and Event of Default. In addition to the relief provided for in this Section, a default shall entitle Plaintiffs to make an application to the Court for an order directing compliance and any other relief in aid of litigant's rights, including an award of attorneys' fees.

#### **8. JUDGMENT BY CONFESSION**

8.1 Upon execution of this Consent Order, Pasmel Defendants shall provide Plaintiffs with a Judgment by Confession in the amount of \$85,000.00 and supporting Affidavit for

Judgment by Confession executed by Pasmel Defendants, attached as Exhibit A. Plaintiffs' counsel shall hold the Judgment by Confession in escrow pending an Event of Default.

8.2 If an Event of Default occurs, Plaintiffs may make an application pursuant to the New Jersey Rules of Court to enter and enforce the Judgment by Confession, and to have judgment entered against the Pasmel Defendants, in the entire amount of \$85,000.00, plus Plaintiffs' attorneys' fees and costs, less any amounts paid by Pasmel Defendants under this Consent Order.

#### **9. DISMISSAL OF ACTION AS TO PASMEL DEFENDANTS**

9.1 The entry of this Consent Order constitutes a dismissal with prejudice of Plaintiffs' allegations in this Action as to Pasmel Defendants only. This Consent Order is limited to the Parties and will not affect the remaining parties to the Action.

#### **10. GENERAL PROVISIONS**

10.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

10.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

10.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

10.4 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Plaintiffs and Pasmel Defendants.

10.5 Except as otherwise explicitly provided for in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

10.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

10.7 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

10.8 This Consent Order is agreed to by the Parties and entered into for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order nor any action taken hereunder shall constitute, or be construed as: (a) an approval, sanction or authorization by the Attorney General, the Division or any other governmental unit of the State of any act or practice of Pasmel Defendants; and (b) an admission by Pasmel Defendants that any of their acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate any of the Consumer protection laws of the State. This Consent Order is not intended, and shall not be deemed, to constitute evidence or precedent of any kind except in: (a) any action or proceeding by one of the Parties to enforce, rescind or otherwise implement or affirm any or all of the terms of this Consent Order; or (b) any action or proceeding involving a

Released Claim (as defined in Section 12) to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

10.9 Nothing contained in this Consent Order shall be construed to limit or otherwise affect the rights of any Persons who are not Parties to this Consent Order with respect to any of the matters contained herein.

10.10 The Parties represent and warrant that their signatories to this Consent Order have authority to act for and bind the respective Parties.

10.11 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

#### **11. DUTY TO COOPERATE**

11.1 Pasmel Defendants shall cooperate with Plaintiffs in their continued prosecution against the remaining defendants in this Action.

#### **12. RELEASE**

12.1 In consideration of the injunctive relief, payments, undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on Pasmel Defendants making the Settlement Payment in the manner referenced in Section 6, Plaintiffs hereby agree to release Pasmel Defendants from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Plaintiffs could have brought prior to the Effective Date against Pasmel Defendants for violations of the CFA, Advertising Regulations, Weights and Measures Act, Motor Fuels Act and/or Motor Fuels Regulations as alleged in the Action, as well as the matters specifically addressed in this Consent Order ("Released Claims").

12.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action, provided however, that nothing herein shall prevent Pasmel Defendants from raising the defense of set-off against any Consumer who has received Restitution; (b) actions to enforce this Consent Order; and (c) any claims against Pasmel Defendants by any other agency or subdivision of the State.

### **13. PENALTIES FOR FAILURE TO COMPLY**

13.1 The Attorney General (or designated representative) shall have the authority to enforce the provisions of this Consent Order or to seek sanctions for violations hereof or both.

13.2 The Parties agree that any future violation of the injunctive provisions of this Consent Order, the CFA, the Advertising Regulations, the Motor Fuels Act and/or the Motor Fuels Regulations shall constitute a second or succeeding violation under N.J.S.A. 56:8-13 and N.J.S.A. 56:6-3, and that Pasmel Defendants may be liable for enhanced civil penalties.

### **14. COMPLIANCE WITH ALL LAWS**

14.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- (a) Relieving Pasmel Defendants of their obligations to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- (b) Limiting or expanding any right the Plaintiffs may otherwise have to obtain information, documents or testimony from Pasmel Defendants pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Pasmel Defendants may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Plaintiffs to obtain such information, documents or testimony.

### **15. NOTICES UNDER THIS CONSENT ORDER**

15.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties pursuant to this Consent Order shall be sent by the United States Mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Plaintiffs:

Glenn T. Graham, Deputy Attorney General  
Consumer Fraud Prosecution Section  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

For Pasmel Defendants:

Glen J. Vida, Esq.  
Law Office of Glen Vida  
114 Elm Street  
Westfield, New Jersey 07090

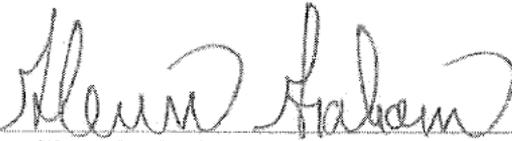
IT IS ON THE 5 DAY OF June 2014 SO ORDERED,  
ADJUDGED AND DECREED.

  
HON. PATRICIA DEL BUENO CLEARY, P.J., CH.

JOINTLY APPROVED AND  
SUBMITTED FOR ENTRY:

FOR THE PLAINTIFFS:

JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: 

Glenn T. Graham  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: June 2, 2014

124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Telephone: [REDACTED]

FOR PASMEL DEFENDANTS:

LAW OFFICES OF GLEN VIDA

By:  \_\_\_\_\_

Dated: 5/30, 2014

Glen J. Vida, Esq.  
Law Office of Glen Vida  
114 Elm Street  
Westfield, New Jersey 07090

Telephone: (908) 654-1700

PASMEL PROPERTY, INC.; DANINKA FUEL, INC.;  
MANTUA PIKE LUKOIL, INC.; ELM – ST. GEORGE S/S INC.;  
EVERGREEN LUKOIL INC.; LAWRENCEVILLE LUKOIL INC.;  
AND SCOTCH PLAINS LUKOIL, INC.

By: \_\_\_\_\_

Dated: \_\_\_\_\_, 2014

Print Name: \_\_\_\_\_

Print Title or Position: \_\_\_\_\_

FOR PASMEL DEFENDANTS:

LAW OFFICES OF GLEN VIDA

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2014

Glen J. Vida, Esq.  
Law Office of Glen Vida  
114 Elm Street  
Westfield, New Jersey 07090

Telephone: (908) 654-1700

PASMEL PROPERTY, INC.; DANINKA FUEL, INC.;  
MANTUA PIKE LUKOIL, INC.; ELM - ST. GEORGE S/S INC.;  
EVERGREEN LUKOIL INC.; LAWRENCEVILLE LUKOIL INC.;  
AND SCOTCH PLAINS LUKOIL, INC.

By:  \_\_\_\_\_ Dated: 6/3, 2014

Print Name: Michael Pasinkovsky

Print Title or Position: PRESIDENT