

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF THE UNITED STATES VIRGIN ISLANDS**

In re:

Bankruptcy No. 1:13-bk-10003

**CARIBBEAN AUTO MART OF
ST. CROIX, INC.,**

Chapter 7

Debtor.

**PROOF OF CLAIM OF THE UNITED STATES ON BEHALF OF
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

1. This Proof of Claim is filed by the United States at the request of the United States Environmental Protection Agency ("EPA"). The Attorney General is authorized to make this Proof of Claim on behalf of the United States. This Proof of Claim relates to the recovery of environmental response costs incurred by EPA under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 et seq., for which Caribbean Auto Mart of St. Croix, Inc. (the "Debtor") is liable with respect to the TC Waste Oil Superfund Site in St. Croix, U.S. Virgin Islands ("Site").

2. The Debtor is liable to reimburse the United States for the costs (plus interest) of actions taken by the United States in response to releases and threatened releases of hazardous substances at the Site. The Debtor is liable to the United States pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for response costs incurred or to be incurred by the United States with respect to the Site because it, or its predecessors in interest, arranged for the disposal or treatment, or arranged with a transporter for the disposal or treatment, of hazardous substances

that it owned or possessed at the Site and such hazardous substances have been detected at the Site. The Site is a "facility" as defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9). There have been releases or threats of releases of hazardous substances at the Site. Response costs have been and will be incurred by EPA at the Site not inconsistent with the National Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, and set forth at 40 C.F.R. Part 300, as amended. Other potentially responsible parties ("PRPs"), along with the Debtor, are jointly and severally liable to the United States under CERCLA with respect to the Site.

3. The Site is located at One North Carlton Road, Estate Carlton, St. Croix, U.S. Virgin Islands. The Site is owned by Marina Charles. Her deceased husband, Theophile Charles, owned two businesses, TC Waste Oil Services, Inc. ("TC Waste Oil") and St. Croix Waste Oil Services ("St. Croix Waste Oil"), which operated at the Site. TC Waste Oil and St. Croix Waste Oil picked up and transported waste oil from various customers on St. Croix and stored, treated and disposed of the waste oil at the Site. At various times between 1996 and 2001, Debtor arranged with Mr. Charles and/or St. Croix Waste Oil for the pickup and transport of at least 28,860 gallons of waste oil owned or possessed by Debtor. This waste oil was a "hazardous substance," as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. 9601(14), because it was contaminated with various "hazardous substances" as a result of the use of the oil including, but not limited to, lead, tetrachloroethylene (PCE), and benzene, toluene and xylene (BTEX). This waste oil was stored, treated and/or disposed of at the Site.

4. As a result of the activities at the Site, the Site became contaminated with hazardous substances including lead, benzene, ethylbenzene, toluene, xylene, asbestos, and tetrachloroethylene ("perc"). In 2008, in response to releases and threats of releases of

hazardous substances, EPA performed a response action at the Site. The response action comprised the removal and off-site disposal of: (a) drums containing waste oil and solvents; (b) soils contaminated with waste oil and hazardous substances; (c) tanks containing waste oil; (d) crushed metal drums; (e) used automobile batteries; and (f) used floor tiles laden with asbestos containing material. As of December 31, 2012, EPA had incurred \$3,064,373 in response costs in connection with the Site.

5. The total amount of this claim is \$3,064,373, plus interest. Other PRPs, along with the Debtor, may be jointly and severally liable to the United States for this amount.

6. No judgments against the Debtor have been rendered on this Proof of Claim.

7. No payments have been made by the Debtor on this claim.

8. This claim reflects the known liability of the Debtor to the United States on behalf of EPA for which the United States has determined to file a proof of claim. The United States reserves the right to amend this claim to assert subsequently discovered liabilities. This proof of claim is without prejudice to any right under 11 U.S.C. § 553 to set off, against this claim, debts owed (if any) to the Debtor by this or any other federal agency.

9. The United States has not perfected any security interest on its claim against the Debtor.

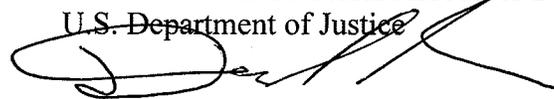
10. This claim is filed as a general unsecured claim except to the extent of any secured/trust interest in insurance proceeds received by the Debtor on account of environmental liability to the United States and to the extent that any letter of credit or other financial assurance provided to the United States is determined to be property of the estate.

11. Protective Filing For Work Obligations. The United States is not required to file a proof of claim with respect to the Debtor's injunctive obligations to comply with work

requirements arising under court orders, administrative orders, and other environmental regulatory requirements imposed by law that are not claims under 11 U.S.C. § 101(5). The Debtor must comply with such mandatory injunctive and regulatory and compliance requirements. Nothing in this Proof of Claim constitutes a waiver of any rights by the United States or an election of remedies with respect to any such rights and obligations. While the United States believes that its position will be upheld by the Court, the United States is filing a protective claim with respect to such obligations and requirements to protect against the possibility that the Debtor will contend that it does not need to comply with any such obligations and requirements and the Court finds that it is not required to do so. Therefore, a protective contingent claim is filed in the alternative for such obligations and requirements, but only in the event that the Court finds that such obligations and requirements are dischargeable claims under 11 U.S.C. § 101(5), rather than obligations and requirements that the Debtor and reorganized Debtor must comply with. Nothing in this Proof of Claim constitutes a waiver of any rights of the United States or an election of remedies with respect to such rights and obligations.

Respectfully submitted,

THOMAS MARIANI
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice



DAVID GORDON
Trial Attorney
Environmental Enforcement Section
Environmental and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044-7611
(202) 514-4185

RONALD W. SHARPE
United States Attorney
District of the U.S. Virgin Islands

JOYCELYN HEWLETT
Assistant United States Attorney
1108 King's Street, Suite 201
Christiansted, St. Thomas
Virgin Islands, 00820-3920

Of Counsel:

CAROL BERNS
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866