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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; THE COMMISSIONER OF THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION; and THE ADMINISTRATOR OF THE NEW JERSEY SPILL COMPENSATION FUND,	:	SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION
	:	MIDDLESEX COUNTY
	:	DOCKET NO. MID-C-101-22
	:	<u>CIVIL ACTION</u>

Plaintiff(s), :

v. :

**JUDICIAL CONSENT ORDER AND  
SETTLEMENT AGREEMENT**

277 LINCOLN BOULEVARD, LLC; 277 LINCOLN HOLDINGS, LLC; MICHAEL L. LACKLAND; GERSHON ALEXANDER; ABC CORPORATIONS” 1 THROUGH 10 (NAMES FICTITIOUS); and/or “JOHN AND/OR JANE DOES” 1 THROUGH 10 (NAMES FICTITIOUS), :

Defendant(s). :

This matter being brought to the Court by, Matthew J. Platkin, Attorney General of New Jersey, through Deputy Attorneys General Matthew D. Knoblauch, Debra A. Allen, and Sydney A.R. Byers, attorneys for Plaintiffs, New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection, and the Administrator of the New Jersey Spill Compensation Fund (collectively, the “Department”); and by Schenck, Price, Smith & King, LLP, through Jonathan F. Donath, Esq. and Heidi S. Minuskin, Esq., attorneys for Defendants, 277 Lincoln Boulevard, LLC (“Lincoln Boulevard”) and Michael Lackland, (Lincoln Boulevard and Michael Lackland collectively referred to herein as “Boulevard Defendants”) and upon the Department and the Boulevard Defendants (together, “Settling Parties”) having amicably resolved their dispute before trial and having agreed to entry of this Judicial Consent Order and Settlement Agreement (“JCO”), and good cause having been shown;

It is STIPULATED AND AGREED:

### **BACKGROUND**

1. The Department initiated this action on August 24, 2022, by verified complaint and order to show cause (“Complaint”) against Lincoln Boulevard and its member, Michael Lackland, and 277 Lincoln Holdings, LLC (“Lincoln Holdings”) and its principal Gershon Alexander (collectively, “Defendants”) in the Superior Court of New Jersey, Middlesex County, Docket No. MID-C-101-22, asserting claims pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 (“Spill Act”), the Brownfield and Contaminated Site Remediation Act (“Brownfield Act”), N.J.S.A. 58:10B-1 to -31 (as amended by the Site Remediation Reform Act (“SRRA”), N.J.S.A. 58:10C-1 to -29), and the regulations promulgated pursuant thereto for Defendants’ failure to remediate hazardous substances discharged at 277 Lincoln Boulevard,

Middlesex Borough, Middlesex County, New Jersey, also known as Block 147, Lot 3 (“Site”) and all other areas to which any contamination has migrated therefrom (“Contaminated Site”).

2. Specifically, the Department sought to enforce an Administrative Consent Order (“ACO”) it entered with Lincoln Boulevard on April 29, 2019, which the Department alleges is fully enforceable as a Final Agency Order in the New Jersey Superior Court, to complete remediation at the Contaminated Site in accordance with the Administrative Consent Order, the Brownfield Act, the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26-2.3(a), and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

3. Any discharge and resulting contamination to and/or from the Site, was not caused by the Boulevard Defendants and occurred prior to Lincoln Boulevard’s acquisition of the Site in 2016.

4. On January 14, 2021, Lincoln Boulevard sold the Site to Mission Baptist Church, Inc. (“MBC”).

5. On May 31, 2022, DEP issued a demand letter to Lincoln Boulevard assessing a \$40,000.00 stipulated penalty for not completing the site remediation as required under the ACO, as described in Paragraph 2 above.

6. On or about August 29, 2022, the Department filed the Complaint against the Boulevard Defendants, among others, seeking Order to compel Lincoln Boulevard to remediate the Contaminated Site, pay the Department’s \$40,000.00 stipulated penalty issued to it on May 31, 2022, for non-compliance with ACO requirements, costs, and civil penalties for continuing Spill Act violations.

7. Michael Lackland, in response to the August 29, 2022, Complaint filing, moved to dismiss the Complaint on October 4, 2022. The Court granted Michael Lackland's motion on December 2, 2022, dismissing Mr. Lackland from the case without prejudice.

8. On October 27, 2022, Lincoln Boulevard filed an Answer denying the allegations of the Complaint and asserting crossclaims against all co-defendants, and filed a Third-Party Complaint against MBC.

9. During the discovery period, the Settling Parties voluntarily participated in a comprehensive settlement conference with the Honorable Thomas Daniel McCloskey, J.S.C. on December 19, 2023, and January 30, 2024, that resulted in the amicable resolution of the Settling Parties' dispute, as reflected in this JCO.

10. The Parties to this JCO recognize and agree, and this Court, by entering this JCO finds, that the Settling Parties have negotiated this JCO in good faith; that the implementation of this JCO will allow the Settling Parties to avoid continued, prolonged, and complicated litigation and potential appeals; and that this JCO is fair, reasonable, and in the public interest.

**THEREFORE**, with the consent of the Settling Parties to this JCO, it is hereby **ORDERED** and **ADJUDGED**:

**JURISDICTION AND VENUE**

11. The Court has jurisdiction over the subject matter of this action pursuant to the Spill Act, Brownfield Act, and SRRA. The Court also has personal jurisdiction over the Settling Parties for the purposes of implementing this JCO.

12. The Settling Parties waive all objections and defenses they may have to the jurisdiction of this Court or venue in Middlesex County. The Settling Parties shall not challenge the Court's jurisdiction to enforce this JCO.

**I. PARTIES BOUND**

13. This JCO applies to, and shall be binding upon, the Department and the Boulevard Defendants. This JCO shall also be binding upon any successors, assigns, subsidiaries, trustees in bankruptcy, or receivers of Lincoln Boulevard.

**II. DEFINITIONS**

14. Unless otherwise expressly provided herein, the terms used in this JCO that are defined in the Spill Act, Brownfield Act, SRRA, and the regulations promulgated thereto shall have their statutory or regulatory meaning.
15. "Lincoln Boulevard" shall mean the named defendant in this litigation, a limited liability company, 277 Lincoln Boulevard, with a principal place of business at 17 West Cliff Street, Somerville, New Jersey, 08876, and also means all of Lincoln Boulevard's past and present subsidiaries, predecessors, successors, related and affiliated partnerships (if any) and corporations, joint ventures (if any), any and all other forms of business venture, divisions, affiliates, direct and indirect parent corporations, officers, employees, representatives, directors, partners, principals, general partners, limited partners, members, agents, stockholders (in their capacity as such), shareholders, owners, attorneys in fact, and attorneys at law, and each of its/their respective heirs, executors, insurers, reinsurers, personal representatives, administrators, beneficiaries, successors, trustees, successors and assigns, past and present, whether named or unnamed in this litigation.

**III. DISCHARGE OF OBLIGATIONS IN BANKRUPTCY**

16. No obligations or penalties imposed by this Agreement are intended to constitute debt(s) which may be limited or discharged in a bankruptcy proceeding. All obligations and penalties are imposed pursuant to the police powers of the State of New Jersey for the

enforcement of the law and the protection of public health, safety, welfare, and the environment.

**IV. LINCOLN BOULEVARD'S COMMITMENTS**

17. Within 30 days after entry of the JCO, and at the direction of the Department as consideration for full and final settlement, Lincoln Boulevard shall pay MBC \$65,000.00 by [insert form of payment/address]. Within ten (10) days after payment to MBC, Lincoln Boulevard shall provide proof of payment to the Department.
18. Within thirty (30) days after entry of the JCO, Lincoln Boulevard shall dismiss all third-party claims asserted by it in this litigation against MBC with prejudice.

**V. DEPARTMENT'S COVENANT & RELEASE**

19. In consideration of the payment Lincoln Boulevard is making pursuant to Paragraph 17 at the direction of the Department, the Department fully and forever releases and covenants to withdraw its demand against the Boulevard Defendants for payment of the \$40,000.00 stipulated penalty in return for Lincoln Boulevard's \$65,000.00 payment to MBC.
20. The Department fully covenants not to sue or take other judicial, administrative, or other action against the Boulevard Defendants and unconditionally releases, acquits, satisfies, and forever discharges the Boulevard Defendants and any and all of the Boulevard Defendants' related business units, subsidiaries, parent companies, affiliates, predecessors, past, present and future directors, officers, shareholders, unit holders, trustees, members, attorneys, employees, agents, representatives, insurers, administrators and contractors and their successors and assigns, and any other related person or entity that would in any way have legal responsibility for any of the Boulevard Defendants from any and all demands, claims, actions, causes of action, suits, rights, liability, obligations, debts, fines, penalties,

damages, orders, punitive and/or exemplary damages, judgments, attorneys' fees, expenses, costs, sums of money and/or other compensation and all other claims whatsoever, in law or in equity, that the Department now has, and/or may have which were raised or could have been raised in the Complaint or are related in any way to the Contaminated Site.

21. The covenants and releases contained in Paragraph 19 and 20 above extend only to the Boulevard Defendants and not to any other person not identified in those paragraphs and shall take effect upon MBC's receipt of the payment that Lincoln Boulevard is required to make pursuant to Paragraph 17, in full.

#### **VI. DEPARTMENT'S RESERVATIONS**

22. The covenants and releases contained in Paragraphs 19 and 20 above do not pertain to any matters other than those expressly stated. The Department reserves, and this JCO is without prejudice to, all rights against the Boulevard Defendants concerning all other matters that are not expressly released, including the following:

- a. Claims based on the Boulevard Defendants' failure to satisfy any term or provision of this JCO;
- b. Liability which is based on some future affirmative act of the Boulevard Defendants, such as its reacquisition of the Site and its future discharge;
- c. Liability arising from Lincoln Boulevard's past, present, or future discharge or unsatisfactory storage or containment of any hazardous substance at locations other than the Site (except for any migration claims related to the Site, which are expressly released);

- d. Criminal liability; and
- e. Liability and obligations to the State Trustee, the Department, or the Commissioner arising from any natural resource damages or injuries at the Contaminated Site.

23. Nothing in this JCO shall restrict the ability of the Department to pursue claims not otherwise addressed in this Agreement in any other proceeding

#### **VII. LINCOLN BOULEVARD'S COVENANTS**

24. Lincoln Boulevard covenants, not to sue or assert any claim or cause of action against the State, including any department, agency, or instrumentality of the State, concerning the remediation of the Contaminated Site. This covenant shall include any direct or indirect claim for reimbursement from the Spill Fund related to the Contaminated Site.

25. Lincoln Boulevard further covenants that it shall not enforce its indemnity agreement with MBC and shall not otherwise pursue MBC for any penalties, contribution, indemnification, expenses, or other costs in relation to the Site leading up to case settlement, including but not limited to the \$65,000.00 contribution payment referenced in Paragraph 17 of the JCO, solely to the extent of any claims released against the Boulevard Defendants by the Department. The Boulevard Defendants specifically do not make any release to MBC for any third-party claims, claims for natural resource damages, or for claims brought by any other governmental entity.

#### **VIII. EFFECT OF SETTLEMENT AND CONTRIBUTION PROTECTION**

26. Nothing in this JCO shall be construed to create any rights in, or grant any cause of action to, any person other than the Settling Parties.



27. When entered, this JCO shall constitute a judicially approved settlement within the meaning of N.J.S.A. 58:10-23.11f.a.(2)(b) and 42 U.S.C.A. § 9613(f)(2) and will resolve the liability of the Boulevard Defendants to the Department for the purpose of providing protection to the Boulevard Defendants from contribution actions under the Spill Act, or any other statute, regulation, or common law principle that provides contribution rights against the Boulevard Defendants with regard to the subject matter of the Complaint, matters related to the Site or the Contaminated Site.
28. The Parties agree, and by entering this JCO this Court finds, that the Boulevard Defendants are is entitled, upon fully satisfying the payment obligations under this JCO as set forth in Paragraph 17, to protection from contribution actions to the fullest extent possible pursuant to the Spill Act, N.J.S.A. 58:10-23.11f.a. (2)(b) and any other statute, regulation, or common law principle that would provide contribution protection to the Boulevard Defendants from contribution claims against the Boulevard Defendants by any person under the Spill Act, or any other statute, regulation, or common law principle that provides contribution rights against the Boulevard Defendants with regard to the subject matter of the Complaint, matters related to the Site or Contaminated Site.

#### **IX. PUBLIC NOTICE**

29. In order for the Boulevard Defendants to obtain protection under N.J.S.A. 58:10-23.11.f.a.(2)(b) from contribution claims for Lincoln Boulevard's alleged obligations in any way related to the Contaminated Site that are resolved by this JCO, on [REDACTED], 2025, the Department published notice of this Consent Judgment in the New Jersey Register and on Plaintiff Department's website, in accordance with N.J.S.A. 58:10-23.11e.2. Such notice included the following information:

- a. The caption of this case;
  - b. The name and location of the Site;
  - c. The name of the Defendants;
  - d. A summary of the terms of this JCO.
30. Within twenty-one (21) days of the Department's publication of notice in the New Jersey Register, and in accordance with N.J.S.A. 58:10-23.11e2, the Department arranged for written notice of the JCO to all other potentially responsible parties, if any, of whom the Department had notice prior to the submission date for the Department to publish notice of the proposed settlement in this matter in the New Jersey Register in accordance with Paragraph 29 above.

#### **X. GENERAL PROVISIONS**

31. Nothing in this JCO shall be deemed to constitute preauthorization of a claim against the Spill Fund within the meaning of N.J.S.A. 58:10-23.11k. or N.J.A.C. 7:1J. This JCO shall not be used as evidence in any other litigation or future proceedings other than in any proceeding to enforce the terms hereof, any proceeding involving the contribution protection provided by this JCO, any contribution action brought by Lincoln Boulevard, or in any insurance coverage action brought by Lincoln Boulevard seeking coverage for the claims asserted in the Complaint, the settlement embodied in this JCO and/or related attorneys' fees, expert fees, and/or costs and expenses.
32. Lincoln Boulevard agrees not to contest the terms and conditions of this JCO, except that Lincoln Boulevard does not waive its right to contest the interpretation or application of such terms and conditions in an action or proceeding brought by the Department to enforce this JCO.

33. Nothing in this JCO shall be construed as precluding the Department from taking any action that the Department deems necessary or appropriate to protect the public health and safety and the environment, and to enforce the environmental laws of the State of New Jersey except as otherwise set forth herein
34. If any provision of this JCO, or the application thereof, except for the terms contained in Paragraphs 19, 20, 27 or 28, shall to any extent be ruled invalid or unenforceable, the remainder of this JCO, or the application of such provision or provisions other than those held invalid or unenforceable, shall not be affected by such ruling, and each remaining provision of this JCO shall be valid and enforced to the fullest extent permitted by laws. However, the Settling Parties retain the right to seek termination of the remainder of this JCO if, after such a ruling, the remainder does not materially serve the purpose for which the Department intended the full JCO to serve. If any of the terms contained in Paragraphs 19, 20, 27 or 28, are to any extent ruled invalid or unenforceable, the balance of this JCO shall be deemed null and void.
35. The provisions as set forth above are made for the compromise of disputed claims, and neither the representations contained in this JCO nor its receipt shall be construed as an admission of liability by any Settling Party. Each of the Settling Parties has signed this JCO on the advice of counsel and enters into this JCO freely and voluntarily.

**XI. EFFECTIVE DATE**

36. The effective date of this JCO shall be the date upon which this JCO is entered by the Court.

## **XII. MODIFICATION**

37. This JCO represents the entire integrated agreement between the Department and Lincoln Boulevard concerning the Site and Contaminated Site and supersedes all prior negotiations, representations, or agreements, either written or oral.
38. This JCO may only be modified by written agreement between the Settling Parties with approval by the Court.

## **XIII. ENTRY OF THIS CONSENT JUDGMENT**

39. Boulevard Defendants consent to the entry of this JCO in the form and with the terms contained herein at the time the JCO is executed on behalf of the Boulevard Defendants without further notice.
40. Upon conclusion of the Department's evaluation of any public comments received as a result of the notice described in Paragraphs 28 and 29 above, it shall submit this JCO to the Court for entry within ten (10) business days. In the event the Department receives information that discloses facts or considerations that indicate to it, in its sole discretion, that the JCO is inappropriate, improper, or inadequate, the Department shall promptly notify counsel of record for the Boulevard Defendants by email of that determination.
41. If for any reason the Court should decline to approve this JCO in the form presented, this agreement is voidable at the sole discretion of any Settling Party and the terms of the agreement may not be used as evidence in any litigation between the Settling Parties or any Person.

**XIV. SIGNATORIES/SERVICE**

42. Each undersigned representative of a Settling Party certifies that he or she is authorized to enter into the terms and conditions of this JCO, and to execute and legally bind such Settling Party to this JCO.
43. This JCO may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same JCO.
44. Scanned (PDF) signature pages of this JCO will have the same force and effect as original “ink” signature pages.

**SO ORDERED** this \_\_\_\_ day of \_\_\_\_\_, 2025.

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HON. LISA M. VIGNUOLO, P.J.,CH.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION CONSENTS TO THE  
FORM AND ENTRY OF THIS CONSENT JUDGMENT

Dated: \_\_\_\_\_

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

Ann H. Wolf  
Assistant Director  
Contaminated Site Remediation and  
Redevelopment

Dated: \_\_\_\_\_

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

David E. Haymes  
Administrator  
New Jersey Spill Compensation Fund

277 LINCOLN BOULEVARD AND MICHAEL LACKLAND CONSENT TO THE FORM AND  
ENTRY OF THIS CONSENT JUDGMENT

Dated: \_\_\_\_\_

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

277 Lincoln Boulevard, LLC

Dated: \_\_\_\_\_

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

Michael L. Lackland