

**FILED**

2012 APR -2 P 1:15

GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

**STATE OF OHIO, ex rel.  
MICHAEL DEWINE,  
OHIO ATTORNEY GENERAL,**

**Plaintiff,**

**v.**

**SAADY A. ABOUHACHEM, et al.,**

**Defendants.**

**CASE NO. CV 10 719253**

**JUDGE JOAN SYNENBERG**

---

**Consent Order for Permanent Injunctive Relief and Civil Penalty**

---

On February 23, 2010, Plaintiff State of Ohio, at the written request of the Director of the Ohio Environmental Protection Agency initiated this action against Defendants Saady A. Abouhashem (a.k.a. Hashem) and Fadwa (a.k.a. Fedwa) S. Abouhashem, alleging five counts of violations of Ohio's solid waste laws and rules. Plaintiff's Complaint was amended on March 8, 2010.

On January 23, 2012, this Court granted summary judgment for Plaintiff State of Ohio and against Defendants on Counts One, Two and Five of Plaintiff's Amended Complaint. At that time, Plaintiff State of Ohio voluntarily dismissed Counts Three and Four of its Amended Complaint.

Plaintiff and Defendants consent to the entry of this Consent Order, and upon consent of the Parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the parties and the subject matter of this action pursuant to Chapter 3734 of the Ohio Revised Code. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted against Defendants.

**II. DEFINITIONS**

2. Unless otherwise stated, all terms used in this Consent Order shall have the same meaning as used in Ohio Revised Code Chapter 3734 and the Ohio Administrative Code rules adopted thereunder.

3. As used in this Consent Order, "Property" means the property currently owned by Defendant Saady A. Abouhashem, and owned by Defendant Fadwa S. Abouhashem from September 2, 2004 to February 1, 2008, and located 2285 Ashland Road, Cleveland, Cuyahoga County, Ohio 44103.

4. "Ohio EPA" means the Ohio Environmental Protection Agency.

**III. PARTIES BOUND**

5. The provisions of this Consent Order shall apply to and be binding upon Plaintiff, Defendants, their successors in interest, heirs, devisees and assigns, and others to the extent provided by Civil Rule 65(D).

6. Nothing herein shall be construed to relieve Defendants of their obligation to comply with all applicable federal, state, or local statutes, regulations, or ordinances including but not limited to applicable permit requirements.

#### **IV. SITE ACCESS**

7. Defendants agree and consent that Ohio Environmental Protection Agency and its employees and agents shall have full access to the Property at all reasonable times, without the need for a warrant, as may be necessary to implement this Consent Order and/or to monitor compliance with this Consent Order and/or Ohio environmental laws.

8. Paragraph 7 of this Consent Order shall not be construed to eliminate or restrict any right Ohio Environmental Protection Agency or its designated agents may otherwise have under federal, state or local law to seek access to the Property; nor does Paragraph 7 impose any obligation on the Ohio Environmental Protection Agency to perform inspections, assessments, closure, post-closure care, sampling, monitoring, surveying, mitigation, remediation and/or emergency response work.

#### **V. SATISFACTION OF LAWSUIT AND EFFECT OF CONSENT ORDER**

9. The parties consent and stipulate as to Defendants' liability for Counts One, Two and Five of Plaintiff's Amended Complaint. Counts Three and Four of Plaintiff's Amended Complaint were voluntarily dismissed by Plaintiff. Except as otherwise specifically provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of the civil and administrative liability of Defendants, and their successors in interest and assigns, for the claims alleged in Plaintiff's Amended Complaint.

10. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief from Defendants for: (A) claims or violations not referenced in the Complaint; (B) any violations arising out of acts or omissions first occurring after the effective date of this Consent Order; or (C) claims or violations under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. §9601, et seq. or R.C. 3734.20 through

3734.27 for any emergency, removal, remedial, corrective actions, or natural resource damages. Defendants retain all rights, defenses, and/or claims they may legally raise to the extent that the State seeks further relief from Defendants in the future for claims not alleged in this action, or in any action brought to enforce the terms of this Consent Order.

11. Nothing in this Consent Order shall constitute or be construed as a satisfaction of lawsuit, release, or a covenant not to sue regarding any claim alleged in the Complaint, or any other claim or cause of action, against any person, firm, trust, joint venture, partnership, corporation, association, or other entity not a signatory to this Consent Order for any liability they may have arising out of, or relating to, the Property including, but not limited to, those identified in the Complaint.

12. In addition to the requirements expressly provided in this Consent Order, Defendants are ordered and enjoined to immediately comply with the requirements of Ohio Revised Code Chapter 3734 and the rules adopted thereunder. Nothing herein shall be construed to relieve Defendants of their obligation to comply with all other applicable federal, state, or local statutes, regulations, or ordinances.

#### **VI. INJUNCTION**

13. Defendants shall commence removal of remaining scrap tires from the Property no later than April 1, 2012.

14. No later than May 1, 2012, Defendants shall remove all scrap tires from the Property and properly transport the scrap tires to a scrap tire facility that is licensed or registered to accept such waste.

15. No later than May 11, 2012, Defendants shall provide Plaintiff State of Ohio with receipts for disposal of all tires removed from the Property in 2012.

16. No later than June 30, 2012, Defendants shall remove no less than nine hundred (900) cubic yards of solid waste and/or construction and demolition debris from the Property and properly transport the solid waste and/or debris to a facility that is licensed or registered to accept such material.

17. No later than September 30, 2012, Defendants shall have removed a cumulative total of no less than one thousand eight hundred (1,800) cubic yards of solid waste and/or construction and demolition debris from the Property and properly transport the solid waste and/or debris to a facility that is licensed or registered to accept such material.

18. No later than December 31, 2012, Defendants shall have removed a cumulative total of no less than two thousand seven hundred (2,700) cubic yards of solid waste and/or construction and demolition debris from the Property and properly transport the solid waste and/or debris to a facility that is licensed or registered to accept such material.

19. No later than March 31, 2013, Defendants shall have removed a cumulative total of no less than three thousand six hundred (3,600) cubic yards of solid waste and/or construction and demolition debris from the Property and have properly transported the solid waste and/or debris to a facility that is licensed or registered to accept such material.

20. No later than June 30, 2013, Defendants shall have removed a cumulative total of no less than four thousand five hundred (4,500) cubic yards of solid waste and/or construction and demolition debris from the Property and have properly transported the solid waste and/or debris to a facility that is licensed or registered to accept such material.

21. No later than September 30, 2013, Defendants shall have removed a cumulative total of no less than five thousand four hundred (5,400) cubic yards of solid waste and/or construction and demolition debris from the Property and have properly transported the solid

waste and/or debris to a facility that is licensed or registered to accept such material.

22. No later than December 31, 2013, Defendants shall have removed a cumulative total of no less than six thousand three hundred (6,300) cubic yards of solid waste and/or construction and demolition debris from the Property and have properly transported the solid waste and/or debris to a facility that is licensed or registered to accept such material.

23. No later than March 31, 2014, Defendants shall remove any and all remaining solid waste and debris from the Property and have properly transported the solid waste and debris to a facility that is licensed or registered to accept such material.

24. No later than ten days after each of the removal deadlines set forth in Paragraphs 16 through 23, Defendants shall provide Plaintiff State of Ohio with receipts for disposal of all solid waste and debris removed from the Property during the previous quarter.

#### **VII. CIVIL PENALTY**

25. Defendants are ordered and enjoined to pay to Plaintiff State of Ohio a civil penalty of two hundred fifty thousand dollars (\$250,000). Such payment shall be made as follows:

a. No later than April 1, 2012, and no later than the first day of each month for the following twenty-four consecutive months, Defendants are ordered and enjoined to pay Plaintiff State of Ohio one thousand dollars (\$1,000), for a total of twenty-five thousand dollars (\$25,000).

b. The remaining two hundred and twenty-five thousand dollars (\$225,000) of the civil penalty shall be held in abeyance. In the event that Defendants fail to remove all solid waste and debris from the property by March 31, 2014, as set forth in Paragraph 23 herein, then Defendants are ordered and enjoined to pay Plaintiff State of Ohio the ninety

percent (90%) of the penalty that is being held in abeyance, meaning two hundred and twenty-five thousand dollars (225,000), by April 1, 2014.

26. All payments as set out in Paragraph 25 herein shall be made by delivering a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio," delivered to Martha Sexton, Paralegal, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400.

#### **VIII. STIPULATED PENALTIES**

27. If Defendants fail to meet any of the requirements set out in Paragraphs 13 through 25a. of this Consent Order, Defendants shall immediately and automatically be liable for and shall pay a stipulated penalty of one hundred dollars (\$100) per day for each requirement not met. These stipulated penalty payments do not offset any amount of the total civil penalty as set forth in Paragraph 25, above. Such payment(s) shall be made by delivering to Martha Sexton, Paralegal, or her successor, Office of the Attorney General, Environmental Section, 30 E. Broad St., 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400, a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio."

#### **IX. NOTICES**

28. All documents required to be submitted under this Consent Order shall be submitted to the following, or their successors:

*As to Plaintiff State of Ohio:*  
Ohio Environmental Protection Agency  
Northeast District Office  
Solid Waste Supervisor  
2110 East Aurora Road  
Twinsburg, OH 44087

Ohio Environmental Protection Agency  
Manager, Compliance Monitoring and Enforcement Unit  
Division of Waste and Materials Management  
50 W. Town St., Suite 700  
P.O. Box 1049  
Columbus, OH 43216-1049

*As to Defendants:*  
Saady A. Abouhashem  
Fadwa S. Abouhashem  
4745 Fairway Drive  
Brooklyn, OH 44114

#### **X. COURT COSTS**

29. Each party is hereby ordered to pay its court costs in this action.

#### **XI. RETENTION OF JURISDICTION**

30. This Court shall retain jurisdiction of this action for the purposes of making any order or decree which it deems appropriate.

#### **XII. SIGNATORIES**

31. Each of the undersigned representatives for the Parties represents that he/she is fully authorized to enter into the terms and conditions of this Consent Order and legally bind the respective Party to this document.

#### **XIII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK**

32. Upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve notice of judgment upon all parties and the Order's date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.



IT IS SO ORDERED.



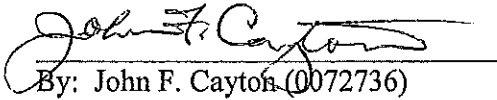
JUDGE JOAN SYNENBERG  
Cuyahoga County Court of Common Pleas  
JUDGE UNAVAILABLE  
JUDGE NANCY A. FUERST  
Administrative Judge

4/4/12

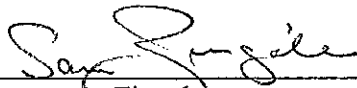
Date

APPROVED:

MICHAEL DEWINE (0009181)  
ATTORNEY GENERAL OF OHIO



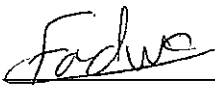
By: John F. Cayton (0072736)  
Assistant Attorney General



Salvatore A. Zingale  
Counsel for Defendants



Saady A. Abouhashem



Fadwa S. Abouhashem