

FILED
COMMON PLEAS COURT

'96 SEP 25 PM 5:27 IN THE COURT OF COMMON PLEAS

ROCKNE W. CLARKE TUSCARAWAS COUNTY, OHIO
CLERK OF COURTS

GENERAL TRIAL DIVISION

STATE OF OHIO EX REL.,	:	CASE NO. 96-CV-080332
BETTY D. MONTGOMERY,	:	JUDGE
ATTORNEY GENERAL,	:	EDWARD EMMETT O'FARRELL
STATE OF OHIO,	:	
PLAINTIFF	:	<u>JUDGMENT ENTRY-NON-ORAL</u>
	:	<u>CONSIDERATION CONDUCTED ON</u>
	:	<u>9/23/96-9/15/96 MOTION FOR</u>
vs.	:	<u>DEFAULT JUDGMENT CONSIDERED-</u>
	:	<u>DEFAULT JUDGMENT ON LIABILITY</u>
STAN BURKHART	:	<u>ISSUES ENTERED-ORDER TO</u>
and	:	<u>ASSIGNMENT COMMISSIONER TO</u>
	:	<u>SCHEDULE ORAL HEARING FOR</u>
LAKEVIEW WOODWORKING,	:	<u>PURPOSE OF DETERMINING NATURE</u>
	:	<u>AND SCOPE OF RELIEF TO BE</u>
DEFENDANTS	:	<u>GRANTED-ORDERS ENTERED</u>

This matter was considered by Edward Emmett O'Farrell, Judge, Court of Common Pleas, Tuscarawas County, Ohio, General Trial Division, on 9/23/96 on a Non-Oral basis relative to the 9/15/96 Motion for Default Judgment filed by the Plaintiff against Defendants Stan Burkhardt and Lakeview Woodworking.

The Court

FINDS that the Motion of 9/15/96 seeking a Default Judgment against Defendants should be Granted as it relates to issues of liability.

FINDS that the Assignment Commissioner should schedule this litigation for an oral Hearing on the Court's regular Oral Hearing Motion Docket for the purpose of the Court determining the nature and scope of the relief to be granted.

It is therefore

ORDERED, ADJUDGED AND DECREED that the 9/15/96 Motion for Default Judgment filed by the Plaintiff and against Defendants Stan Burkhart and Lakeview Woodworking is Granted on the issue of liability only.

ORDERED, ADJUDGED AND DECREED that the Assignment Commissioner shall schedule this litigation for an oral Hearing on the Court's regular Oral Hearing Motion Docket for the purpose of the Court determining the nature and scope of the relief to be granted.

IT IS SO ORDERED.

Edward O'Farrell

Edward Emmett O'Farrell, Judge

Date: 9/25/96

cc: Assign. Comm.
Asst. Atty. General David G. Cox
Defendant Stan Burkhart
Defendant Lakeview Woodworking

IN THE COURT OF COMMON PLEAS

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TUSCARAWAS COUNTY, OHIO

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GENERAL TRIAL DIVISION

ROCKNE W. CLARKE
CLERK OF COURTS

STATE OF OHIO, EX REL.	:	CASE NO. 96-CV-080332
BETTY D. MONTGOMERY,	:	JUDGE
ATTORNEY GENERAL OF OHIO,	:	EDWARD EMMETT O'FARRELL
PLAINTIFF	:	
	:	<u>JUDGMENT ENTRY-ORAL/</u>
	:	<u>EVIDENTIARY HEARING CONDUCTED</u>
	:	<u>ON 10/7/96-AMOUNT OF MONETARY</u>
	:	<u>DAMAGES AND NATURE OF</u>
	:	<u>INJUNCTIVE RELIEF TO WHICH</u>
	:	<u>PLAINTIFF IS ENTITLED</u>
vs.	:	<u>CONSIDERED-JUDGMENT ENTERED</u>
	:	<u>IN FAVOR OF PLAINTIFF AND</u>
	:	<u>AGAINST DEFENDANTS (JOINTLY</u>
	:	<u>AND SEVERALLY) IN THE AMOUNT</u>
	:	<u>OF \$25,000.00 TO BEAR</u>
	:	<u>INTEREST AT THE RATE OF 10%</u>
	:	<u>PER ANNUM FROM DATE OF</u>
	:	<u>JUDGMENT-CERTAIN INJUNCTIVE</u>
	:	<u>RELIEF ISSUED-ORDER TO CLERK</u>
STAN BURKHART, et al.,	:	<u>TO CLOSE CASE FILE AND REMOVE</u>
DEFENDANTS	:	<u>FROM PENDING CASE DOCKET-</u>
	:	<u>ORDERS ENTERED</u>

This matter was considered by Edward Emmett O'Farrell, Judge, Court of Common Pleas, Tuscarawas County, Ohio, General Trial Division, on 10/7/96 on the Court's regular Oral Hearing Motion Docket consistent with the Orders contained in this Court's Judgment Entry of 9/25/96 wherein a default judgment was entered in behalf of the Plaintiff and against the Defendants relative to the issue of legal liability and, further, scheduling this matter for an Evidentiary Hearing relative to Monetary

Damages to be awarded, if any, and the scope of Injunctive Relief to be awarded, if any.

The Plaintiff was represented by Assistant Attorney General David G. Cox. Neither Stan Burkhart nor Lakeview Woodworking, the Defendants in this case, appeared. Neither were represented by legal counsel.

The Court

FINDS that the Plaintiff presented evidence in support of an award of Monetary Damages as well as the Injunctive Relief sought. The Court concludes that the Plaintiff has presented sufficient evidence to entitle it to the relief awarded in the Orders of the Court below.

FINDS that the Clerk of Courts should close this case file and remove it from the pending case docket.

It is therefore

ORDERED, ADJUDGED AND DECREED that upon the claims of the Plaintiff contained in its Complaint filed 8/12/96, judgment is awarded to the State of Ohio, ex rel. Betty D. Montgomery, Attorney General of Ohio, and against the Defendants, Stan Burkhart and Lakeview Woodworking, in the amount of Twenty-Five Thousand Dollars (\$25,000.00) authorized by Section 3704.06, Ohio

Revised Code. Said monetary award is to bear interest at the rate of ten percent (10%) per annum from the date of journalization of this Judgment Entry.

ORDERED, ADJUDGED AND DECREED that the following Injunctive Relief is issued in favor of the Plaintiff and against these Defendants:

>Stan Burkhart and Lakeview Woodworking (hereafter Defendants) are enjoined from violating the provisions of Chapter 3704, Ohio Revised Code, and the regulations adopted thereunder. Defendants are specifically enjoined from failing to comply with all terms and conditions of the Permits to Install and Permits to Operate currently in full force and effect and relating to any subsequent renewals or modifications thereof.

>Defendants are hereby permanently enjoined from installing or modifying any air contaminant source as those terms are defined in Rules 3745-31-01(I), (J) and (D), Ohio Administrative Code, respectively. This Injunction pertains to the Defendants' business activity at their facility. The Defendants are required to first apply for and obtain a Permit to Install from the Director of the Ohio EPA in accordance with O.A.C. Rule 3745-31-02.

>Defendants are hereby permanently enjoined from operating any air contaminant source as that term is defined by O.A.C. Rule 3745-35-01(B)(1) without first applying for and receiving a Permit to Operate from the Director of the Ohio EPA in accordance with O.A.C. Rule 3745-35-02.

>Defendants are hereby permanently enjoined from violating any and all terms and

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conditions of all Permits to Install and Permits to Operate which have been issued to the Defendants heretofore by the Director of the Ohio EPA.

>Defendants are hereby permanently enjoined from failing to maintain daily records which list the following information for each surface coating or ink employed in each air contaminant source:

>The company identification of the surface coating;

>The number of gallons employed;

>The VOC content, in pounds of VOC per gallon of coating;

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>The VOC content, in pounds of VOC per gallon of coating, minus water;

>The water content, in percent by volume; and

>The nonvolatile (solids) content, in percent by volume.

>Defendants are hereby Ordered to submit to the Southeast District Office of the Ohio EPA, on a monthly basis, for the next two calendar years commencing with the journalization of this Judgment Entry, the daily records required by the above preceding Injunctive Order as well as any supporting coding or ink analyses and computations. The daily records submitted pursuant to this Order for the month of October, 1996, shall be received by the Ohio EPA at its Southeast District Office on or before 11/8/96. The monthly records for each month thereafter shall be received by the Ohio EPA at its Southeast District Office on or before the 5th business day of each subsequent month to continue for a

period of twenty-four (24) months following the entry of this Order.

>Defendants are hereby Ordered, to the extent possible, to reuse, recycle, or sell for recovery all solid, semi-solid or hazardous materials generated by their unit operations. In any event, all solid, semi-solid and hazardous waste generated by the Defendants' business operation must be stored, treated, or disposed of in facilities installed and operated in accordance with Chapter 3734, Ohio revised Code.

>Defendants are hereby Ordered to notify, in writing, Glen Greenwood, or his successor, at the Southeast District Office of the Ohio Environmental Protection Agency, Division of Air Pollution Control, 2195 Front Street, Logan, Ohio, 43138, as to any and all proposed disposition of all solid, semi-solid and hazardous waste materials. Notification shall include the following information:

1. Name, location, and address of disposal facility.
2. Method of disposal (e.g. incineration, secure landfill, etc.).
3. Description of waste material to be disposed of.
4. Quantities of waste material to be disposed of and frequency of disposal.
5. Name and address of contract haulers.

Any change in the disposition of waste materials shall be reported to the Southeast District Office of the Ohio Environmental Protection Agency prior to such change.

ORDERED, ADJUDGED AND DECREED that the Civil Penalty of Twenty-Five Thousand Dollars (\$25,000.00), for which judgment has been Ordered above, shall be paid by the Defendants to the Plaintiff c/o Matt Sanders, Administrative Assistant, (or his successor) at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3428, by Certified Check payable to the Treasurer of the State of Ohio.

ORDERED, ADJUDGED AND DECREED that in the event the Defendants fail to comply with any and all requirements and payments by this Judgment Entry, the Defendants shall, upon proper proof of violation being presented to this Court, be potentially liable for additional Civil Penalties as provided by law.

ORDERED, ADJUDGED AND DECREED that all Court costs are to be paid from the deposit and any balance owed to be billed to the Defendants. Judgment is awarded to the Plaintiff and against the Defendants for the amount of the Court costs deducted from the deposit for which execution shall issue.

ORDERED, ADJUDGED AND DECREED that the Clerk of Courts shall close this case file and remove it from the pending case docket.