

IN THE COURT OF COMMON PLEAS
LICKING COUNTY, OHIO

STATE OF OHIO, ex rel.
LEE FISHER
ATTORNEY GENERAL OF OHIO

Plaintiff,

vs.

JAMES EPIFANO
d/b/a KRANER'S BAR AND CARRYOUT
3982 National Road
Hebron, Ohio 43025

Defendant.

CASE NO. 92 CV 00334 03

JUDGE _____

CONSENT ORDER

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Environmental Enforcement Section

CAS COURT
OHIO
CLERK

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio by its Attorney General Lee Fisher (hereinafter "Plaintiff") and Defendant James Epifano d/b/a Kraner's Bar and Carryout (hereinafter "Defendant") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has both personal and subject matter jurisdiction over Defendant. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 6111 of the Ohio Revised Code and the rules promulgated thereunder. Venue is proper in this Court.

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II. PERSONS BOUND BY THE ORDER

2. All terms and provisions of this Consent Order shall apply to and be binding upon Defendant and his assigns, successors in interest, agents, representatives, servants, employees, officers, directors, contractors, consultants, subsidiaries or divisions, and/or all persons, firms, or corporations who are or will be acting in concert or in privity with the Defendant. Defendant shall provide a copy of this Consent Order to each contractor or consultant he employs to perform work itemized herein and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendant has operated his wastewater treatment plant in such a manner as to result in violations of the water pollution laws of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for all claims under such laws alleged in the Complaint against Defendant. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the

Complaint, including violations or conditions which occur after the filing of the Complaint. Similarly, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action against any person, including Defendant, to eliminate or mitigate conditions arising after the date hereof which may present a threat to the public health, welfare or the environment.

IV. PERMANENT INJUNCTION

4. Defendant is hereby immediately and permanently enjoined and ordered to comply with all applicable provisions contained in Chapter 6111 of the Ohio Revised Code.

V. CIVIL PENALTY

5. It is hereby ordered that Defendant shall pay to the State of Ohio a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00). This civil penalty shall be paid by certified check for that amount, made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise, to Janice Miller, Administrative Assistant, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, within forty-five (45) days of the Court's Entry of this Consent Order.

VI. STIPULATED PENALTIES

6. In the event that Defendant fails to meet any of the requirements of this Consent Order set forth in Paragraph 4, Defendant shall immediately and automatically be liable for and shall pay a stipulated penalty according to the following payment schedule: for each day of each failure to meet a requirement, up to thirty (30) days - Two Hundred Fifty Dollars (\$250.00) per day for each requirement not met. For each day of each failure to meet a requirement, from thirty-one (31) to sixty days (60) - Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of each failure to meet a requirement, from sixty-one (61) to ninety (90) days - One Thousand Dollars (\$1,000.00) per day for each requirement not met. For each day of each failure to meet a requirement, from ninety (90) to one hundred twenty (120) days - Two Thousand Five Hundred Dollars (\$2,500.00) per day for each requirement not met. For each day of each failure to meet a requirement, over one hundred twenty (120) days - Three Thousand Five Hundred Dollars (\$3,500.00) per day for each requirement not met.

7. Any payment required to be made under the provisions of Paragraph Six (6) of this Order shall be made by delivering to Plaintiff's counsel a certified check or checks for the appropriate amounts, within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order, made payable to "Treasurer, State of Ohio".

VII. RIGHT OF ENTRY

8. Defendant consents to the Director, or his authorized representatives, entering the facility in order to inspect, investigate, take samples and pictures, examine or copy records, or to observe work being performed under this order. Entry into Defendant's facility for these purposes shall not be denied. This section in no way circumscribes nor limits any legal right of access which the Director now possess.

VIII. COURT COSTS

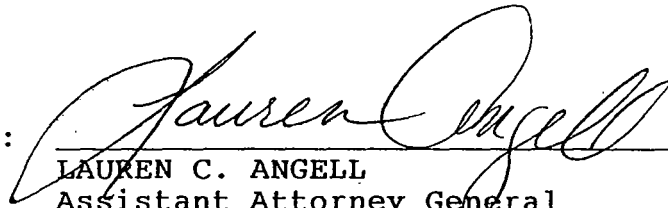
9. Defendant is hereby ordered to pay the costs of this action.

1s/ Gen R. Spahr, Per Rule
JUDGE, COURT OF COMMON PLEAS,
LICKING COUNTY, OHIO

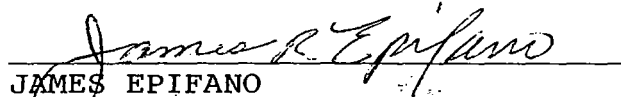
APPROVED:

STATE OF OHIO, ex rel.
LEE FISHER
ATTORNEY GENERAL OF OHIO

BY:



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JAMES EPIFANO
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Hebron, Ohio 43025
Defendant

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