

DANIEL M. HERRIGAN

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

2012 MAR -5 PM 3: 21

LANDMARK NATIONAL II CORP.
SUMMIT COUNTY
CLERK OF COURTS
Plaintiff,

Case No.: CV-2011-06-3523 7

Judge Stormer

v.

NASSER KAHOOK, ET AL.

Defendants.

CONSENT ORDER

A Cross-Claim has been filed by Defendant State, by its Attorney General Michael DeWine ("State"), against Cross-Claim Defendants Gas Express, Inc., Nasser Kahook, aka Nasser M. Kahook, Wafa Kahook. aka Wafa N. Kahook, and Ali N. Kahook ("Cross-Claim Defendants") and the State and Cross-Claim Defendants having consented to the entry of this Order;

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

I. JURISDICTION AND VENUE

1. The Court has jurisdiction over the parties and the subject matter of this case. The Cross-Claim states a claim upon which relief can be granted against Cross-Claim Defendants under Chapter 3737 of the Ohio Revised Code, and venue is proper in this Court.

II. PARTIES

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and others to the

extent provided by Civil Rule 65(d). Cross-Claim Defendants shall provide a copy of this Consent Order to each contractor they employ to perform work as a result of this Consent Order, and Defendant shall ask each general contractor to provide a copy of this Consent Order to each of its subcontractors for such work. The undersigned representatives of each party to this Consent Order certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms and conditions of the Consent Order and to execute and legally bind that party or parties to it.

III. SATISFACTION OF LAWSUIT

3. Except as otherwise provided in Paragraph 4 of this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Cross-Claim Defendants for all claims under such laws as alleged in the Cross-Claim.

4. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief from Cross-Claim Defendants for: (a) claims or violations not referenced in the Cross-Claim; (b) any violations arising out of acts or omissions first occurring after the entry 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. Further, nothing in this Consent Order shall be construed to limit or extend the authority of the State of Ohio to seek immediate relief to abate any conditions that pose a threat to human health or the environment. Cross-Claim Defendants retains all rights, defenses, and/or claims they may legally raise to the extent that the State seeks further relief from them in the future, or in any action brought to enforce the terms of this Consent Order, except that they shall not assert, and may not maintain, any defense or claim based upon the principles of waiver.

res judicata, collateral estoppel, issue preclusion, claim splitting, or other defenses based upon any contention that the claims raised by the State in subsequent proceedings were or should have been brought in the instant case.

5. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with it and/or any work performed at the Sites to date does not constitute an admission of any liability, wrongdoing, or misconduct on the part of the Cross-Claim Defendants, its officers, employees or representatives.

6. Except as otherwise expressly provided herein, nothing herein shall be construed to relieve Cross-Claim Defendants of their obligation to comply with all applicable federal, state, or local statutes, regulations, or ordinances, including but not limited to the applicable permit requirements thereunder.

IV. PERMANENT INJUNCTION

7. Cross-Claim Defendants are hereby ordered and enjoined to comply with the applicable requirements of R.C. Chapter 3737 and the applicable rules adopted under that Chapter, subject to the terms and conditions of this Consent Order.

V. CLOSURE COMPLIANCE

8. Cross-Claim Defendants are hereby ordered and enjoined to comply with the closure requirements set forth in Ohio Adm. Code 1301:7-9-12 for the four underground storage tank (“UST”) systems at the Starfire gas station located at 1487 Canton Road, Akron, Summit County, Ohio 44321 (the “Site”). In addition, Cross-Claim Defendants are ordered and enjoined to perform any necessary corrective actions at the Site as required by Ohio Adm. Code 1301:7-9-13 until a No Further Action (“NFA”) status is achieved.

9. Upon the submission of any report or other document by Cross-Claim Defendants pursuant to any provision of this Order, if the BUSTR determines that the report is incomplete or insufficient (which shall be specified in writing), Cross-Claim Defendants shall respond in writing to BUSTR within fourteen (14) days of notification of the deficiency or deficiencies from BUSTR. In reviewing any report or other document required to be submitted by this Consent Order, BUSTR will conduct its review and make its determinations in a manner consistent with all applicable provisions of this Consent Order and any applicable statutes, rules, and/or scientific or professional guidance documents.

10. All reports or other documents approved by BUSTR and submitted pursuant to this Consent Order shall be considered incorporated into this Consent Order and fully enforceable as required by under this Consent Order.

11. The reports and documents required by Paragraphs 8-9 and any other written notification applications, correspondence, permit applications, and plans as required by this Consent Order, shall be sent to:

Division of the State Fire Marshal
ATTN: Bureau of Underground Storage Tank Regulations
8895 East Main Street
Reynoldsburg, Ohio 43068

All correspondence that BUSTR submits to Cross-Claim Defendants as required by this Consent Order shall be sent to:

Ali N. Kahook
4321 Brookview Court
Uniontown, Ohio 44685

VI. CIVIL PENALTY

12. Cross-Claim Defendants are ordered and enjoined to pay a civil penalty of twenty thousand dollars (\$20,000) within one hundred eighty (180) days after entry of this Consent Order. This payment shall be made by delivering to Martha Sexton, Paralegal, or her successor, Office of the Attorney General, 30 E. Broad Street, 25th Floor, Columbus, Ohio 43215, by two certified checks or money orders, one in the amount of \$15,000 and another in the amount of \$5,000, payable to the order of "Treasurer, State of Ohio."

13. In the case of State v. Gas Express, Inc., et al, Case No. CV-2010-12-8448, a May 26, 2011 Entry and Order orders the Cross-Claims Defendants to pay an air pollution civil penalty in the amount of \$39,860, pursuant to R.C. 3704.06(C), and attorneys' fees in the amount of \$4,237 for a total of \$44,097. If the full \$20,000 is paid as required by paragraph 13, the payment will satisfy, in full, the civil penalty and attorney fees required by the May 26, 2011 Entry and Order in addition to the State's claims in this case.

14. The \$5,000 payment shall be credited as the underground storage tank civil penalty, pursuant to R.C. 3737.882, and will resolve, in full, the civil penalty required to be paid in this case.

15. Upon payment of the \$20,000, as required by paragraph 12, the State will release the judgment lien filed in State v. Gas Express, Inc., et al, Case No. CV-2010-12-8448.

VII. RETENTION OF JURISDICTION

16. The Court will retain jurisdiction of this action for the purpose of administering and enforcing the terms and provisions of this Consent Order.

VIII. SIGNATORIES

17. Each of the undersigned representatives of 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.

IX. COSTS

18. Cross-Claim Defendants are hereby ordered to pay the court costs of this action.

X. ENTRY OF CONSENT ORDER

19. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Order by the Court, the clerk is directed to enter it upon the journal. Within three (3) days of entering the Order upon the journal, the clerk is directed to serve upon all parties notice of the Order and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and to note the service in the appearance docket.

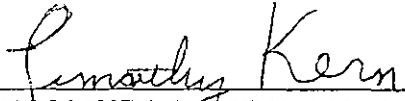
SO ORDERED THIS 5TH DAY OF March, 2012.



JUDGE STORMER
SUMMIT COUNTY
COURT OF COMMON PLEAS

APPROVED BY:

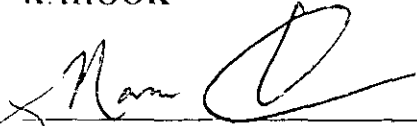
**MICHAEL DEWINE
OHIO ATTORNEY GENERAL**



**TIMOTHY J. KERN (0034629)
MICHAEL E. IDZKOWSKI (0062839)**
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Timothy.Kern@OhioAttorneyGeneral.gov

Attorney for State of Ohio

**NASSER KAHOOK, aka NASSER M.
KAHOOK**



Nasser Kahook, aka Nasser N. Kahook

Print name: NASSER KAHOOK

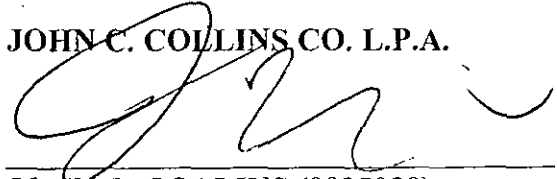
**WAFI KAHOOK, aka WAFI N.
KAHOOK**



Wafi Kahook, aka Wafi N. Kahook

Print name: WAFI KAHOOK

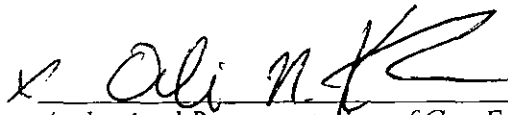
JOHN C. COLLINS CO. L.P.A.



JOHN C. COLLINS (0005030)
333 S. Main Street, Suite 304
Akron, Ohio 44308

Attorney for Cross-Claim Defendants

GAS EXPRESS, INC.

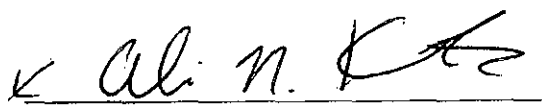


Authorized Representative of Gas Express, Inc.

Print name: Ali Kahook

Title: President

ALI N. KAHOOK



Ali N. Kahook

Print name: Ali Kahook