

IN THE COURT OF COMMON PLEAS
SANDUSKY COUNTY, OHIO

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LIRIAN COOPER-SMITH
CLERK

State of Ohio ex rel. : Case No. 98 CV 241
Betty D. Montgomery, :
Attorney General of Ohio : JUDGE Judge Margaret K. Weaver
30 East Broad Street :
Columbus, Ohio 43215-3428, :

Plaintiff, :

v. :

Ludlow Composites Corporation :
2100 Commerce Drive :
Fremont, Ohio 43420, :

Defendant. :

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General, Betty D. Montgomery (hereinafter "Plaintiff"), and Defendant Ludlow Composites Corporation 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, and without admission of fact or liability by Ludlow Composites Corporation, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. DEFINITIONS

1. As used in this Order, the following terms are defined as follows:
 - a. "Air contaminant source", or "source", has the same meaning as that set forth in Ohio Rev. Code §3704.01(C) and Ohio Administrative Code Rules 3745-35-01(B)(1).
 - b. "Consent Order", or "Order", means this Order and Final Judgment.

- c. "Facility" means Defendant Ludlow Composites Corporation's vinyl coating facility located at 2100 Commerce Drive, Fremont, Sandusky County, Ohio.
- d. "O.A.C." means the Ohio Administrative Code.
- e. "Ohio EPA" means the Ohio Environmental Protection Agency.
- f. "Particulate emissions" has the same meaning as set forth in O.A.C. Rule 3745-17-01(B)(11).

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim upon which relief can be granted against Defendant under Chapter 3704 of the Ohio Revised Code, and venue is proper in this Court.

III. PARTIES

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them.

IV. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint, inter alia, that Ludlow Composites Corporation has operated certain air contaminant sources at its Facility in violation of the air pollution control laws and regulations of the State of Ohio. Specifically, Plaintiff alleges that Ludlow Composites Corporation has violated particulate matter and nuisance regulations in connection with the operation of two (2) air contaminant sources at its Facility.

5. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil and/or administrative liability by Defendant for all violations alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for

violations not alleged in the Complaint, including violations which occur after the entry of this Consent Order. Nothing herein shall represent or be construed as an admission by the Defendant of any violations or claims or allegations contained in the Complaint or herein.

V. CONTROL PLAN AND COMPLIANCE SCHEDULE

A. Compliance with O.A.C. Chapters 3745-17 and 4735-15

6. Pursuant to paragraphs 7 through 14 of this Consent Order, Defendant Ludlow Composites Corporation agrees and is hereby enjoined and ordered to comply with all applicable air pollution nuisance prohibitions and particulate emission limitations established by the Director of Environmental Protection in O.A.C. Chapters 3745-15 and 3745-17.

B. Installation of ESP to Control Emissions from Sources P006 and P007

7. Defendant Ludlow Composites Corporation agrees and is hereby enjoined and ordered to install, and thereafter maintain and operate, an electrostatic precipitator ("ESP") to control particulate emissions from two (2) vinyl casting and fusion ovens, Sources P006 and P007, at its Facility, in accordance with paragraphs 8 to 12 of this Order, provided that the ESP is delivered in accordance with paragraph 8 of this Order, and includes all of the equipment described therein. Following installation of this ESP, Ludlow shall conduct stack testing in accordance with paragraphs 12 and 13 below to determine compliance with the particulate emission limitations of 5.38 pounds per hour for Source P006 and 3.82 pound per hour for Source P007 (from O.A.C. Rule 3745-17-11) and the particulate emission rate determined pursuant to paragraph 16 of this Consent Order.

8. The ESP referenced in this section is the Powermate Division, Eltron Division, Supertron Model EMW 421-EHT unit to be delivered to Ludlow Composites Corporation by Seaman Corporation, 1000 Venture Boulevard, Wooster, Wayne County, Ohio, by no later than

forty-five (45) days after entry of this Order, and shall include all of the equipment associated therewith, including:

- a. six spare grids for the ESP;
- b. certain dilution air dampers and controls at the exit of the ESP;
- c. certain spray heads and controls for evaporative spray cooling purposes;
- d. the main piece of tie-in duct work which transitioned the process duct work to the ESP;
- e. certain transition duct work between the ESP and the exhaust blower; and
- f. the exhaust blower.

9. Defendant Ludlow Composites Corporation agrees and is hereby enjoined and ordered, within seventy-five (75) days after entry of this Order, to complete the design of all modifications to its Facility which are necessary to permit proper installation and operation of the ESP.

10. Defendant Ludlow Composites Corporation agrees and is hereby enjoined and ordered, within one hundred and fifty (150) days after entry of this Order, to commence installation of the ESP.

11. Defendant Ludlow Composites Corporation agrees and is hereby enjoined and ordered, within one hundred and eighty (180) days after entry of this Order, to commence operation of the ESP.

12. Within sixty (60) days of commencing operation of the ESP, Ludlow Composites Corporation agrees and is hereby enjoined and ordered to achieve compliance with O.A.C. Rule 3745-15-07 and to achieve and demonstrate compliance with the particulate emission limitations for sources P006 and P007. Compliance shall be demonstrated by performing a particulate emission

test on the stack of the ESP serving Sources P006 and P007. In the course of performing this emission test, Ludlow Composites Corporation agrees and is hereby enjoined and ordered to use its good faith best efforts to ensure that the ESP is operating at its maximum potential control efficiency.

13. The emission tests required by paragraph 12 shall be conducted using Methods 1 through 4, and Method 5A, of Appendix A of 40 C.F.R. Part 60, and shall be conducted while Sources P006 and P007 are operating at or near their maximum capacities -- unless otherwise specified or approved by the Northwest District Office of Ohio EPA. Not later than thirty (30) days prior to such tests, Ludlow Composites Corporation shall submit an "Intent to Test" notification to the Northwest District Office of Ohio EPA. The "Intent to Test" notification shall describe in detail the proposed test methods and procedures, the emissions units' operating parameters, the time(s) and date(s) of the tests, and the person(s) who will be conducting the tests. Personnel from Ohio EPA shall be permitted to witness the tests, examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emissions units and the testing procedures provide a valid characterization of the emissions from the emissions units and/or the performance of the ESP. A comprehensive written report on the results of the emissions tests shall be signed by the person(s) responsible for the tests and submitted to the Northwest District Office of Ohio EPA within thirty (30) days following completion of the tests.

14. In the event that the ESP described in paragraph 8 cannot, for technical or engineering reasons, be installed or operated in accordance with paragraphs 7 and/or 16, Ludlow is enjoined to notify Ohio EPA within ten (10) days of that determination and document Ludlow's good faith efforts to install and operate the ESP. Within 30 days of the notification, Ludlow shall submit to Ohio EPA a compliance schedule for bringing Sources P006 and P007 into compliance with the

particulate emission limitations in O.A.C. Rule 3745-17-11 and/or in paragraph 16 of this Consent Order. The schedule shall contain a description of the control strategy with appropriate and expeditious milestones. The schedule shall ensure compliance is achieved within six months after Defendant's determination described above. Ludlow is enjoined to comply with the schedule as submitted. Within seven months after Defendant has made the determination described above, Defendant shall conduct stack testing in accordance with paragraph 12 to determine compliance with the particulate emission limitations of 5.38 pounds per hour for Source P006 and 3.82 pound per hour for Source P007.

VI. CIVIL PENALTY

15. Defendant Ludlow Composites Corporation shall pay a civil penalty of One Hundred Forty-Five Thousand Dollars (\$145,000.00). Of the total civil penalty, payment of One Hundred Forty (\$140,000) is suspended upon the condition that Ludlow Composites Corporation complies with the terms of paragraph 16 of this Consent Order -- which constitutes a supplemental environmental project to be undertaken by Ludlow Composites Corporation in lieu of the payment of this portion of the civil penalty. The remaining portion of the civil penalty, in the amount of Five Thousand Dollars (\$5,000) shall be paid by delivering a certified check to Jena Suhadolnik, Administrative Assistant (or her successor), Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, payable to the order of "Treasurer, State of Ohio", within thirty (30) days of the entry of this Order.

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

16. Once the testing pursuant to paragraphs 12 and 13 of this Consent Order is completed, Ohio EPA shall, in writing, establish particulate emission limitation for Ludlow consistent with this paragraph. This limit shall constitute a supplemental environmental project. Except as provided in

paragraph 14 of this Consent Order, the combined particulate emission limitation established by Ohio EPA shall be one hundred and twenty percent (120%) of the average test results from the testing required in ¶13 of this Order or the total of the existing limitations from O.A.C. Rule 3745-17-11, whichever is more stringent. Defendant is enjoined and ordered to comply with this limitation after receipt of the letter.

VIII. RETENTION OF JURISDICTION

17. The Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order and resolving disputes arising under the Order.

18. Defendant may move this Court, pursuant to Civil Rule 60(b), to terminate the provisions of ¶ 15 of this Order no sooner than one year after Defendant has demonstrated that Sources P006 and P007 are in compliance with the terms of ¶¶ 7 or 14 as applicable.

IX. COSTS

19. Defendant Ludlow Composites Corporation is hereby ordered to pay the costs of this action.

X. POTENTIAL FORCE MAJEURE

20. If any event occurs which causes or may cause a delay or interruption in meeting any requirement of Section V or VII of this Order, Defendant shall notify Ohio EPA in writing within ten (10) days of the event, describing in detail the anticipated length of the delay or interruption, the precise cause or causes of the delay or interruption, the measures taken and to be taken by Defendants to prevent or minimize the delay or interruption, and the timetable by which the measures will be implemented.

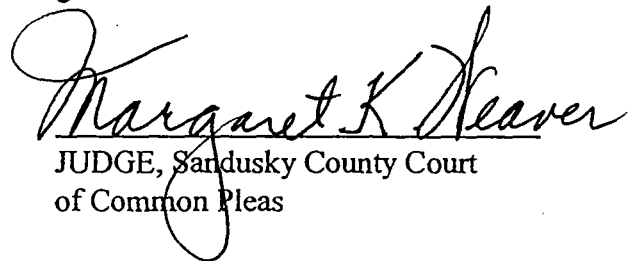
21. Upon receipt of the notice referenced in the preceding paragraph, Plaintiff may agree to waive or defer one or more requirements herein or the enforcement thereof. Plaintiff will inform

Defendants of its decision in writing by certified mail. A decision by Plaintiff to waive or defer any requirement of this Order shall not be a bar to any enforcement action for Defendants' failure to meet the requirement as deferred. Any deferred requirement shall be considered enforceable in place of the specified requirement and shall be subject to the same potential sanctions as the original requirement. A decision by the Plaintiff to defer enforcement of any requirement set forth in this Order shall not constitute a waiver of enforcement action with regard to the terms of this Order, unless the Plaintiff expressly so agrees.

22. In any action by the State of Ohio to enforce any of the provisions of this Order, Defendant may raise that it is entitled to a defense that its conduct was caused by reasons beyond its control. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties hereto that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an action to enforce the terms of this Order is commenced by Plaintiff.

IT IS SO ORDERED:

ENTERED this 1st day of April, 1998


JUDGE, Sandusky County Court
of Common Pleas

APPROVED:

LUDLOW COMPOSITES CORPORATION

BY:



ALBIN BAUER, II (0061245)

Eastman & Smith Ltd.

One SeaGate, 24th Floor

P.O. Box 10032


Toledo, Ohio 43699-0032

(419) 241-6000

Counsel for Defendant

STATE OF OHIO, ex rel. Betty D. Montgomery
Attorney General of Ohio

BY:



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Columbus, Ohio 43215

(614) 466-2766

Counsel for Plaintiff

BY:



(Authorized Representative of
Defendant, Ludlow Composites
Corporation)

Robert J. Moran

President and CEO

Ludlow Composites Corporation