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FRANCIS J. CARLOS
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IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO

STATE OF OHIO, ex rel.,
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

Plaintiff,

v.

MELVIN MARKOWITZ, et al.
dba Van Deilen Concrete Contractors
Defendants.

Case No. 95-1184

JUDGMENT ENTRY

On May 2, 1995, the State of Ohio filed a Complaint for Injunctive Relief and Civil Penalties with this Court. Despite being properly served with the Complaint pursuant to Civil Rule 4.1(1), Defendants failed to answer. On July 19, 1995, the State filed a motion for default judgment. On August 22, 1995, a hearing was held on the State's motion for default judgment. Defendants failed to appear, even though Defendants were notified by this Court of the hearing date via certified mail. Based upon the hearing and the memoranda submitted by the State, the Court makes the following findings:

1. In January 1993, Defendants Markowitz and Van Deilen Concrete Contractors engaged in a demolition of buildings at 900 W. Central Avenue in Toledo, Ohio.


2. The demolition of their buildings resulted in the disturbance of asbestos material and the release of asbestos into the air.
3. Defendants began the demolition operations without first notifying the Director of Ohio EPA pursuant to Ohio Administrative Code Rule 3745-20-03, and then proceeded with the demolition in violation of Ohio EPA and Ohio Department of Health regulations governing the removal of asbestos and asbestos containing materials. Specifically, Defendants violated the provisions of Ohio Administrative Code Chapters 3745-20 and 3745-15 by failing to remove the asbestos materials prior to demolition of the buildings, by failing to properly dispose of asbestos materials, by failing to adequately wet the asbestos materials during the demolition in order to prevent asbestos particles from becoming airborne, and by creating an air pollution nuisance.

WHEREFORE, in light of those facts, the Court orders the following:

1. Defendants are immediately and permanently enjoined to comply with the requirements of Ohio Revised Code Chapter 3704, and the regulations adopted under that chapter, including the requirements of Ohio Administrative Code Chapter 3745-20, relating to asbestos.
2. Defendants are immediately and permanently enjoined from engaging in the demolition or renovation of any buildings or facilities located within the State of Ohio which contain or may contain asbestos material.
3. Defendants are ordered, pursuant to Ohio Revised Code Section 3704.06, to pay a civil penalty in the amount of twenty-five thousand dollars for the violations set forth in Plaintiff's Complaint.

SO ORDERED

Date



Judge Ruth Ann Franks
Court of Common Pleas
Lucas County, Ohio

cc: Joan R. Kooistra
Melvin Markowitz
Van Deilen Concrete