

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

FRANKLIN COUNTY COURT  
CLERK OF COURTS

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

CASE NO.

JUDGE

CLERK OF COURTS

*Plaintiff,*

vs.

MILLCO CONSTRUCTION COMPANY,  
*et al.*,

92CVH01-800

92 CVH - 01 - 800

*Defendants.*

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CONSENT ORDER

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The Plaintiff, State of Ohio, *ex rel.* Lee Fisher, Attorney General of Ohio ("Plaintiff"), having filed the Complaint in this action against Defendants Millco Construction Company, Millco Development Company, Millco Properties, Robert M. Miller and Susan J. Miller (hereinafter collectively referred to as "Defendants") to enforce the State of Ohio's hazardous waste laws and the rules promulgated thereunder concerning the Defendants' hazardous waste handling practices at their facility located at the southwest corner of Sancus Boulevard and Dearborn Park Lane, just west of 7469 Worthington-Galena Road, Worthington, Franklin County, Ohio, and Plaintiff and Defendants having consented to entry of this Consent Order;

*THEREFORE*, without trial or admission of any issue of law or of fact, and upon the consent of the Plaintiff and

Defendants hereto, it is hereby *ORDERED, ADJUDGED* and *DECREED* as follows:

I. PERSONS BOUND

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

II. SATISFACTION OF LAWSUIT

Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims against Defendants alleged in the Complaint. 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. Furthermore, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action, pursuant to Ohio Revised Code ("ORC") Section 3734.20, against any person, including Defendants, for remedial or corrective action or monitoring or testing at the Bedford Landfill, or to seek costs to reimburse the State of Ohio for such work, should the Director determine that such an action must be undertaken to abate pollution or contamination or to protect public health or safety.

III. JURISDICTION AND VENUE

The Court has both personal and subject matter jurisdiction over Defendants and the Complaint states a claim upon which

relief can be granted against Defendants under ORC Chapter 3734. and the rules promulgated thereunder. Venue is proper in this Court.

#### IV. PERMANENT INJUNCTION

Defendants are hereby permanently enjoined and ordered to comply with ORC Chapter 3734. and the rules promulgated thereunder.

Defendants are also permanently enjoined and ordered to refrain from storing, treating, disposing of, transporting, or causing to be transported, any hazardous waste at or to any premises other than one of the facilities specifically designated in ORC Section 3734.02(F). In addition, Defendants are permanently enjoined and ordered to refrain from establishing or operating a hazardous waste facility without first obtaining a hazardous waste facility installation and operation permit from the Hazardous Waste Facility Board, as required by ORC Section 3734.02(E). Furthermore, Defendants are permanently enjoined and ordered to refrain from violating any order issued under ORC Section 3734.13.

#### V. CIVIL PENALTY

It is hereby ordered that Defendants Robert M. Miller, Millco Construction Company, Millco Development Company and Millco Properties shall pay a total civil penalty of twenty-one thousand five hundred dollars (\$21,500.00). This civil penalty shall be paid by certified checks made payable to "Treasurer, State of Ohio," which checks shall be delivered by mail, or otherwise, to Shane A. Farolino, or his successor, at his

office at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. This penalty shall be paid into the hazardous waste clean-up fund created by ORC Section 3734.28 and shall be paid according to the following schedule:

<u>PAYMENT</u>	<u>PAYMENT DATE</u>
\$7,500.00	Within thirty (30) days of filing of Consent Order.
\$3,500.00	Within one (1) year of filing of Consent Order.
\$3,500.00	Within two (2) years of filing of Consent Order.
\$3,500.00	Within three (3) years of filing of Consent Order.
\$3,500.00	Within four (4) years of filing of Consent Order.

#### VI. RETENTION OF JURISDICTION

The Court will retain jurisdiction of this action for the purpose of overseeing that Defendants carry out the terms and conditions of this Consent Order and comply with ORC Chapter 3734. and the rules adopted thereunder.

#### VII. COURT COSTS

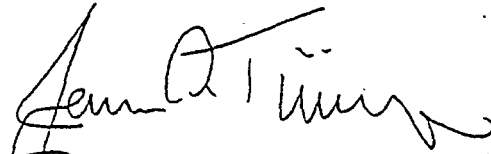

Defendants shall pay the court costs of this action.

ENTERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1992.

\_\_\_\_\_  
JUDGE, Franklin County Court of  
Common Pleas

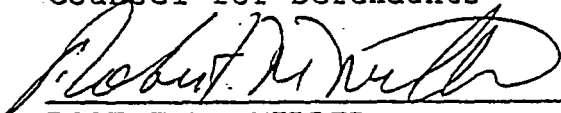
APPROVED:

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


  


JEROME C. TINIANOW (0005725)  
Hahn, Loeser & Parks  
431 East Broad Street  
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Columbus, Ohio 43215-3820

Counsel for Defendants



ROBERT M. MILLER  
Individually and on behalf of  
Millico Construction Company,  
Millico Development Company, and  
Millico Properties

  
SUSAN J. MILLER



SHANE A. FAROLINO (0040310)  
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State of Ohio

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IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

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

Plaintiff,

vs.

MILLCO CONSTRUCTION  
COMPANY, MILLCO DEVELOPMENT:  
COMPANY, MILLCO PROPERTIES  
AND ROBERT M. MILLER

Defendants.

CASE NO. 92CVH01-800

CHARGES IN CONTEMPT  
AGAINST DEFENDANTS  
MILLCO CONSTRUCTION  
COMPANY, MILLCO  
DEVELOPMENT COMPANY,  
MILLCO PROPERTIES AND  
ROBERT MILLER

Plaintiff State of Ohio charges to this Court that Defendants Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller have violated the provisions of the Court's Consent Order Between the State of Ohio and Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller entered on January 30, 1992. These violations are described in more detail in the following paragraphs. The Court's Order is attached hereto and fully incorporated by the reference.

GENERAL ALLEGATIONS

1. On January 30, 1992 the State of Ohio filed a civil complaint in the above-captioned case against Defendants Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller ("Defendants") for Defendants' violations of R.C. Chapter 3734, Ohio's Hazardous Waste statute, and

rules promulgated thereunder, concerning Defendants' waste handling practices at the southwest corner of Sancus Boulevard and Dearborn Park Lane, just west of 7469 Worthington-Galena Road, Worthington, Franklin County, Ohio ("the Site" or "facility").

2. On January 30, 1992 this Court entered a Consent Order between the State of Ohio and Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller (the "Court's Order"). In the Court's Order, this Court ordered and enjoined Defendants to comply with R.C. Chapter 3734 and rules promulgated thereunder, and to pay a civil penalty of \$21,500.00. A copy of the Court's Order is attached hereto as Exhibit A. The \$21,500.00 civil penalty was to be paid in one installment of \$7,500.00, followed by four annual installments of \$3,500.00 due on January 30, 1993, January 30, 1994, January 30, 1995, and January 30, 1996.

3. As of the date of this filing, Defendants have failed to comply with the requirements of the Court's Order in that Defendants **have failed to make the \$3,500 civil penalty installment payments for January 30, 1993, January 30, 1 994, and January 30, 1995.** An affidavits outlining these facts are attached as Exhibit B.

4. On April 11, 1994 and September 6, 1995 and at other times, the State sent a letter to Defendants' attorney informing him of the noncompliance with the January 30, 1992 Court's Order.

5. Defendants' failure to comply with the Court's Order constitutes disobedience of, or resistance to, an order, judgment, and/or command of this

Court.

6. The above general allegations are applicable to each specific charge enumerated below and are incorporated into each as if fully restated therein.

**FIRST CHARGE**

**FAILURE TO PAY CIVIL PENALTY**

7. In Section V of the Court's Order, this Court ordered Defendants Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller to pay a civil penalty of twenty-one thousand five hundred dollars (\$21,500), of which installments of three thousand five hundred dollars (\$3,500.00) were to be paid on each of the following dates: January 30, 1993, January 30, 1994, and January 30, 1995..

8. Defendants Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller have failed to pay each of the three thousand five hundred dollars (\$3,500) civil penalty installments of January 30, 1993, January 30, 1994, and January 30, 1995.

9. The failure of Defendants Millco Construction Company, Millco Development Company, Millco Properties and Robert M. Miller to pay the civil penalty installments described above is in violation of Section V of the Court's Order.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff State of Ohio, pursuant to R.C. Chapter 2705, R.C. §2727.12, and the inherent power of this Court, requests that this Court issue its



Order requiring Defendants to show cause why each Defendant should not be held in contempt of this Court's January 30, 1992 Consent Order.

Further, upon demonstration of the contempt at a Show Cause hearing, the State requests that this Court:

- (A) Order Defendants to comply with all the provisions of the Court's Order of January 30, 1992, including the payment of \$10,500 in delinquent civil penalties required by that Order.
- (B) Order Defendant to pay fines and be subject to other punishment and/or relief pursuant to R.C. §§2705.05 and 2727.12, in addition to additional civil penalties provided for under R.C. §3734.13.
- (C) Order Defendants to pay the State, the State's attorney's fees incurred as a result of this action.

Respectfully submitted,

BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO

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BRYAN F. ZIMA (0001053)  
Assistant Attorney General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43266-0410  
(614) 466-2766

Attorney for the Ohio Environmental  
Protection Agency

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Charges in Contempt Against Defendants Millco construction Company, Millco Development Company, Millco Properties and Robert M. Miller has been served by regular U.S. mail, postage prepaid, this \_\_\_\_ day of January, 1995 upon the following:

Mr. J. Anthony Kington  
Chester, Hoffman, Willcox & Saxbe  
Suite 900  
17 South High Street  
Columbus, Ohio 43215-3413

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BRYAN F. ZIMA  
Assistant Attorney General