

8/29/90 PRELIMINARY DRAFT
FOR SETTLEMENT PURPOSES ONLY

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

STATE OF OHIO, ex rel.	:	CASE NO. _____
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO	:	JUDGE _____
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	<u>CONSENT ORDER</u>
MULTI-SERVICE, INC.	:	
58 Ringgold Street	:	
Dayton, Ohio 45403	:	
	:	
and	:	
	:	
FORD TATMAN	:	
58 Ringgold Street	:	
Dayton, Ohio 45403	:	
	:	
Defendants.	:	

The Plaintiff, State of Ohio, ex rel. Anthony J. Celebrezze, Jr., Attorney General of Ohio ("State" or "Plaintiff"), having filed the Complaint in this action against Defendants Multi-Service, Inc. and Ford Tatman, (hereinafter "Defendants") on behalf of the Director of the Ohio Environmental Protection Agency ("OEPA" or "Ohio EPA"), to enforce the State of Ohio's hazardous waste laws and the rules promulgated thereunder concerning the Defendants' waste handling and disposal practices at the Multi-Service facility located at 58 Ringgold Street, Dayton, Ohio 45403 (hereinafter the "facility"), and Plaintiff and Defendants having consented to entry of this Order;

THEREFORE, without trial or admission of any issue of law or of fact, and upon the consent of the Plaintiff and Defendants Multi-Service and Ford Tatman hereto, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. PERSONS BOUND

1. The provisions of this Consent Order shall apply to and be binding upon Defendant Multi-Service, Inc., its agents, officers, employees, assigns, successors, predecessors in interest, and Ford Tatman. Defendants shall provide a copy of this Consent Order to each consultant or contractor they employ to perform the work referenced herein.

II. SATISFACTION OF LAWSUIT

2. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants Multi-Service, Inc. and Ford Tatman for all claims against said Defendants alleged in the Complaint. Nothing in this Consent Order, including the requirement that Defendants pay stipulated penalties for violations of the Consent Order, shall be construed so as to limit the authority of the State of Ohio to seek relief or civil penalties 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 the Defendants, to

eliminate or mitigate conditions arising after the date hereof which may present a threat to the public health, welfare or the environment. Nothing herein shall be construed to preclude the State from seeking that the Defendants or others conduct remedial or corrective action or additional monitoring or testing at the facility as a result of the Defendants waste handling practices at the facility, in addition to what they are otherwise required to conduct under this Consent Order.

III. JURISDICTION AND VENUE

3. The Court has both personal and subject matter jurisdiction over Defendants Multi-Service and Ford Tatman. The Complaint states a claim upon which relief can be granted against the Defendants under Chapters 3734. and 6111. of the Ohio Revised Code and the rules promulgated thereunder. Venue is proper in this court.

IV. GENERAL INJUNCTION

4. Defendants Multi-Service and Ford Tatman are hereby permanently enjoined and ordered to comply with the provisions contained in Chapters 3734. and 6111. of the Ohio Revised Code and the rules promulgated thereunder including, but not limited to, the generator requirements contained in O.A.C. Chapter 3745-52, with respect to all future waste generation at the facility.

5. Effective immediately, Defendants are also permanently enjoined as follows:

- a. Defendant shall not engage in any future storage, treatment, or disposal of hazardous waste for which a hazardous waste facility installation and operation permit is necessary without first obtaining such a permit from the hazardous waste facility board.
- b. Defendant shall develop an approvable written contingency plan for the Facility which meets the requirements of OAC Rules 3745-65-50 through 3745-56-56 and shall submit to Ohio EPA, for approval, the written contingency plan within thirty (30) days of the entry of the consent agreement. The written plan shall be subject to review by the Ohio EPA. If Ohio EPA determines that the plan is not sufficient to achieve compliance with OAC Rules 3745-65-50 through 3745-65-56, Ohio EPA will notify Defendant in writing of the deficiencies in the plan. Defendant shall resubmit the plan in an approvable form including the required modifications within 30 days of receipt of Ohio EPA's written notification of the deficiencies. Defendant shall develop a contingency plan which meets the requirements of those Sections which, inter alia, is designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste;

V. CIVIL PENALTY

6. It is hereby ordered that Defendants shall pay a civil penalty of Twenty-five thousand dollars (\$25,000.00). This civil penalty shall be paid by certified check made payable to "Treasurer, State of Ohio," which check shall be delivered by

mail, or otherwise, to Gertrude M. Kelly, or her successor, at her office at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, within thirty (30) days of the Court's Entry of this Consent Order. This penalty shall be paid into the hazardous waste clean-up account.

VI. STIPULATED PENALTIES

7. In the event that Defendants Multi-Service and Ford Tatman violate any of the terms of this Consent Order, including the milestone requirements, said Defendants shall immediately and automatically be liable for and shall pay stipulated penalties according to the following schedule. For each day of violation or failure to meet a requirement, up to thirty (30) days - One Thousand Dollars (\$1,000.00) per day. For each day of violation or failure to meet a requirement, from thirty-one (31) to sixty (60) days - Two Thousand Dollars (\$2,000.00) per day. For each day of violation or failure to meet a requirement, from sixty-one (61) to ninety (90) days - Three Thousand Dollars (\$3,000.00) per day. For each day of violation or failure to meet a requirement, over ninety (90) days - Five Thousand Dollars (\$5,000.00) per day. Any payment required to be made pursuant to Section VII of this Consent Order shall be paid by certified check made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise, to Gertrude M. Kelly, or her successor, at

her office 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 violation or failure to meet the requirement of this Consent Order. This penalty shall be paid into the hazardous waste clean-up account.

VII. RETENTION OF JURISDICTION

8. 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 RC Chapters 3734. and 6111. and the rules adopted thereunder.

VIII. INSPECTIONS

9. Pursuant to O.R.C. 3734.07, Defendants are ordered to allow employees, representatives, and agents of the Ohio EPA, upon proper identification, to enter upon the Multi-Service facility at reasonable times, to inspect, investigate, take samples and pictures and examine or copy records in order to determine compliance with the terms of this Consent Order and R.C. Chapters 3734. and 6111. and the rules promulgated thereunder. Nothing in this Consent Order shall limit the rights of the Ohio EPA or U.S. EPA to conduct regular and routine inspections pursuant to statute or regulation at the Multi-Services facility.

IX. NOTICE

10. Any submission to the Ohio EPA as required by this Consent Order, unless otherwise indicated, shall be delivered to:

1. Ohio EPA
Southwest District Office
Division of Solid and Hazardous Waste Management
40 South Main Street
Dayton, Ohio 45402-2086
Attn: Frank Bryant

2. Ohio EPA
Division of Solid and Hazardous Waste Management
P.O. Box 1049
1800 WaterMark Drive
Columbus, Ohio 43266-0149
Attn: Michael A. Savage, Manager RCRA Enforcement
Section

X. COURT COSTS

Defendants Multi-Service and Ford Tatman shall pay the court costs of this action.

JUDGE

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

GERTRUDE M. KELLY
J. MICHAEL MAROUS
Assistant Attorneys General
Environmental Enforcement
Section, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410
(614) 466-2766

FORD TATMAN
Individually, and as
President of Multi-Service,
Inc.

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