

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, ex rel.,	:	Case No. 88-156017-CV
ANTHONY J. CELEBREZZE, JR.	:	
ATTORNEY GENERAL OF OHIO,	:	
	:	
Plaintiff,	:	JUDGE BURT GRIFFIN
	:	
v.	:	
	:	
WILLIAM C. PAPPALARDO, et al.,	:	<u>CONSENT ORDER</u>
	:	
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 the Defendants William C. Pappalardo and Papp's Body Shop, Inc. (hereinafter "Defendants" unless otherwise specifically referenced), to enforce the State of Ohio's Hazardous Waste statutes and rules concerning the Defendants' waste handling and disposal practices at its facility located at 20980 St. Clair Avenue, Euclid, Ohio 44117 (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 parties 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 the parties to this action, their agents, officers, employees, assigns, successors, predecessors in interest, and those persons in active concert or participation with them. Defendant William C. Pappalardo shall provide a copy of this Consent Order to each consultant or contractor he employs to perform work referenced herein. Defendant William C. Pappalardo shall also provide a copy of this Consent Order to all current and future employees of Papp's Body Shop, Inc. and to any independent contractor employed to handle, treat and/or dispose of wastes generated by Papp's Body Shop, Inc. until such time as the Defendants certify to the Ohio EPA, pursuant to O.A.C. 3745-66-15, that the Defendants' facility has been closed in accordance with the specifications in the approved closure plan.

## II. SATISFACTION OF LAWSUIT

Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by the Defendants for all claims alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint, including violations which occur after the filing of the Complaint. Furthermore, nothing in

this Order shall be construed 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 an imminent endangerment to the public health, welfare or the environment.

### III. JURISDICTION AND VENUE

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 Defendants under Chapter 3734 of the Ohio Revised Code and regulations promulgated thereunder.

### IV. CLOSURE PLAN

The Defendants are ordered within 60 days after filing of the Consent Order, to submit an approvable closure plan which meets the requirements of O.A.C. Rules 3745-66-10 through 3745-66-20, to the Director of the Ohio EPA and the Ohio EPA's Northeast District Office for remediation of waste contamination at the Defendants facility where hazardous wastes were treated, stored or disposed of. If the Director of the Ohio EPA disapproves part or all of the closure plan, the Defendants shall resubmit the disapproved portion in approvable form to the Ohio EPA within 30 days of Ohio EPA's notification of disapproval of the plan. The Defendants are enjoined and ordered to fully implement the closure plan as approved by the

Ohio EPA, in accordance with O.A.C. Rules 3745-66-10 through 3745-66-16 and, if applicable, O.A.C. Rules 3745-66-17 through 3745-66-20.

V. PERMANENT INJUNCTION

The Defendants are hereby permanently enjoined and ordered to comply with all applicable statutes and regulations contained in O.R.C. 3734 and rules promulgated thereunder regarding all waste handling activities at Defendants' facility. The Defendants are permanently enjoined and ordered to first obtain, as may be required by law, a hazardous waste facility installation and operation permit from the hazardous waste facility board before engaging in any future storage, treatment or disposal of hazardous waste. Defendants are hereby ordered and enjoined to comply with all applicable hazardous waste statutes and regulations after certification of closure to the Ohio EPA, including, but not limited to, preparation of a complete waste evaluation, pursuant to O.A.C. 3745-52-11, of the wastes being generated by the Defendants. The defendants shall submit such a complete waste evaluation to the Ohio EPA within 60 days after filing of the Consent Order. Until such time as the Defendants certify to the Ohio EPA, pursuant to O.A.C. 3745-66-15, that the Defendants' facility has been closed in accordance with the specifications in the approved closure plan, the Defendants are hereby enjoined and ordered to perform the following tasks:

1. The Defendants shall submit to the Ohio EPA within 60 days after filing of the Consent Order an annual report, for the calendar year 1988, which meets the requirements of O.A.C. 3745-65-75.
2. The Defendants shall prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons onto the active portions of the Defendants' facility pursuant to the requirements contained in O.A.C. 3745-65-14 and letter sent from legal counsel for the State to legal counsel for the Defendants, dated September 6, 1989, which sets forth how these requirements apply to the Defendants facility.
3. The Defendants shall provide a hazardous waste facility personnel training program for its employees pursuant to the requirements of O.A.C. 3745-65-16 and letter sent from legal counsel for the State to legal counsel for the Defendants, dated September 6, 1989, which sets forth how these requirements apply to the Defendants facility.
4. The Defendants shall submit to the Ohio EPA within 60 days after filing of the Consent Order a detailed written estimate, of the cost of closing the facility, pursuant to the requirements contained in O.A.C. 3745-66-42.
5. Within 120 days after filing of the Consent Order the Defendants shall have established financial assurance for closure of the Defendants' facility pursuant to one of the options provided for in O.A.C. 3745-66-43. Furthermore, the Defendants shall submit documentation to the Ohio EPA demonstrating said financial assurance within 120 days after filing of the consent order.

## VI. CIVIL PENALTY

It is hereby ordered that the Defendants shall pay a civil penalty of Thirty Thousand Dollars (\$30,000). However, Ten Thousand Dollars (\$10,000) of the penalty shall be suspended and will not be assessed as long as the Defendants comply with the terms and conditions of this Consent Order and Chapter 3734 of the O.R.C. and regulations adopted thereunder. The penalty shall be paid by certified check or money order made payable to "Treasurer, State of Ohio," which check shall be delivered by mail, or otherwise to Edward S. Dimitry, at his office at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410 in accordance with the following schedule: Ten Thousand Dollars (\$10,000.00) shall be paid within 45 days of filing of this Consent Order, Five Thousand Dollars (\$5,000.00) shall be paid within 120 days of filing of this Consent Order, and Five Thousand Dollars (\$5,000.00) shall be paid within 180 days of filing of this Consent Order. This penalty shall be paid into the Ohio Hazardous Waste Cleanup Fund Created by O.R.C. Section 3734.28.

## VII. RETENTION OF JURISDICTION

The Court will retain jurisdiction of this action for the purpose of making any order or decree which it deems

appropriate to carry out the terms, conditions and compliance with this Consent Order and Chapter 3734 of O.R.C. and rules adopted thereunder.

#### VIII. INSPECTIONS

Pursuant to O.R.C. 3734.07, the Defendants are ordered to allow representatives of the Ohio EPA, upon proper identification, to enter upon the Defendants' 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 O.R.C. Section 3734 and rules promulgated thereunder. Nothing in the Order shall limit the rights of the Ohio EPA or U.S. EPA to conduct regular and routine inspections pursuant to statute or regulation.

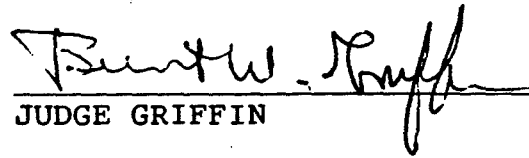
#### IX. NOTICE

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


1. Ohio EPA  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Debby Berg
2. Ohio EPA  
Division of Solid and Hazardous Waste Management  
P.O. Box 1049  
1800 WaterMark Drive  
Columbus, Ohio 43266-0149  
Attn: Michael Savage


X. COURT COSTS

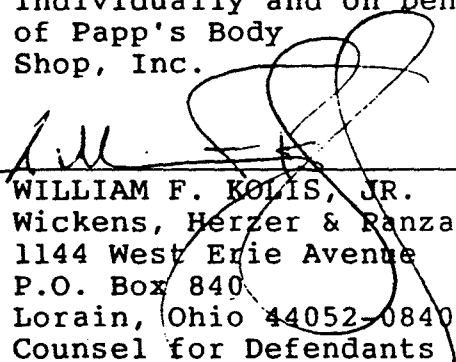
The Defendants shall pay the court costs of this action.

  
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JUDGE GRIFFIN

ANTHONY J. CELEBREZZE, JR.  
ATTORNEY GENERAL OF OHIO

  
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\_\_\_\_\_  
WILLIAM C. PAPPALARDO  
Individually and on behalf  
of Papp's Body  
Shop, Inc.

  
\_\_\_\_\_  
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BY HERALD E. FUERST DAA

