

IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

THIS IS A FINAL
APPEALABLE ORDER

STATE OF OHIO EX REL. JAN 21 2 16 PM '98 CASE NO. CI0199804155
BETTY D. MONTGOMERY :
ATTORNEY GENERAL OF OHIO :
COMMON PLEAS COURT JUDGE
HARRY BARLOS : ASSIGNED TO JUDGE FRANKS
CLERK OF COURTS

Plaintiff,

v.

CONSENT ORDER

PEXCO PACKAGING CORP.

Defendant.

Plaintiff, the State of Ohio, by its Attorney General Betty D. Montgomery, at the written request of Donald R. Schregardus, the Director of Environmental Protection, has filed a Complaint seeking injunctive relief and civil penalties from Defendant Pexco Packaging Corp, ("Pexco") for violations of R.C. Chapter 3704 and the rules promulgated thereunder, and both parties have consented to the entry of this Order.

Therefore, without trial, admission, or determination of any issue of fact or law, and upon the consent of the parties hereto, 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. "Facility" means Defendant Pexco's flexographic printing facility and all related operations located at 795 Berdan Avenue, Toledo, Lucas County, Ohio.
 - b. "Ohio EPA" means the Ohio Environmental Protection Agency.
 - c. "Director" means the Director of Environmental Protection.
 - d. "Air contaminant source" or "source" has the same meaning as set forth in R.C. 3704.01(C) and Ohio Administrative Code ("O.A.C") 3745-31-01(D)

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and 3745-35-01(B)(1).

- e. "Permit to Operate" or "PTO" has the same meaning as set forth in O.A.C. Chapter 3745-35.
- f. "Permit to Install" or "PTI" has the same meaning as set forth in O.A.C. Chapter 3745-31.

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim for which relief can be granted, and venue is proper in this Court.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, and, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure, their officers, agents, servants, employees, attorneys, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Consent Order whether by personal service or otherwise.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. The Plaintiff alleges in its Complaint that the Defendant has owned and operated the Facility in such a manner as to result in violations of the air pollution control laws and regulations of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of the Defendant to the Plaintiff for the claims alleged in the Plaintiff's Complaint.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State of Ohio from bringing any action against the Defendant for any violations which occur after the

entry of this Order. Nothing in this Consent Order shall be construed to relieve the Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

V. INJUNCTION

6. The Defendant is hereby enjoined and ordered to refrain from “installing” or “modifying” any air contaminant source, as those terms are defined by O.A.C. 3745-31-01(EE) and (KK), at the Facility without first applying for and obtaining a Permit To Install from the Director in accordance with O.A.C. 3745-31-02. In addition, the Defendant agrees to refrain and is hereby permanently enjoined from operating any air contaminant source without first applying for and receiving a Permit To Operate from the Director in accordance with O.A.C. 3745-35-02. Further, the Defendant agrees and is hereby permanently and immediately enjoined and ordered to comply with all terms and conditions of all existing Permits To Install and Permits To Operate which have been issued to the Defendant by the Director as of the date of entry of this Order, including all modifications and renewals thereof.

VI. CIVIL PENALTY

7. Pursuant to R.C. 3704.06(C), the Defendant shall pay a civil penalty in the amount of Twenty-five Thousand Dollars (\$25,000.00) to the State of Ohio. Payment shall be made by delivering a certified check payable to the order of “Treasurer, State of Ohio” for the above-stated amount to: Jena Suhadolnik or her successor, Administrative Assistant, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, within thirty (30) days of the entry of this Consent Order.

VII. STIPULATED PENALTIES

8. In the event that the Defendant fails to pay the penalty imposed by paragraph 7 of this Consent Order, the Defendant shall, immediately and automatically, be liable for and shall pay a stipulated penalty of \$250 per day for each day beyond said deadline that payment is delayed.

9. In the event that the Defendant violates the permanent injunction set forth in paragraph 6 of this Consent Order relating to the installation, modification and/or operation of air contaminant sources without the necessary permits, the Defendant shall be liable for and shall immediately pay stipulated penalties in accordance with the following schedule:

- a. for each air contaminant source installed or modified without first obtaining a permit to install, Defendant shall pay a stipulated penalty of Five Thousand Dollars (\$5,000.00) per source per installation/modification;
- b. for each day for which each air contaminant source is operated without first obtaining a permit to operate, Defendant shall pay a stipulated penalty of Five Hundred Dollars (\$500.00) per day of operation per source.

10. The Defendant shall pay any stipulated penalties due under this Consent Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be paid by the Defendant by its delivering to the Plaintiff, c/o Jena Suhadolnik, Administrative Assistant, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428, a certified check in that amount, payable to the order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty.

11. The imposition, payment and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent the State from pursuing additional remedies,

civil, criminal or administrative, for violations of applicable laws.

VIII. RETENTION OF JURISDICTION

12. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

IX. TERMINATION

13. No earlier than two years from the date of entry of this Consent Order, Pexco may move the Court, pursuant to Civ. R. 60 (B), to terminate this Consent Order if Pexco can demonstrate that it has been in continuous compliance with the requirements of this Consent Order for such two year period.

X. COURT COSTS

14. The Defendant is hereby ordered to pay all court costs of this action.

XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

15. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

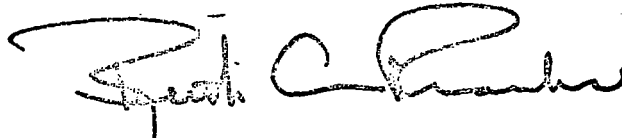
XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

16. Each signatory for the Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof.

IT IS SO ORDERED

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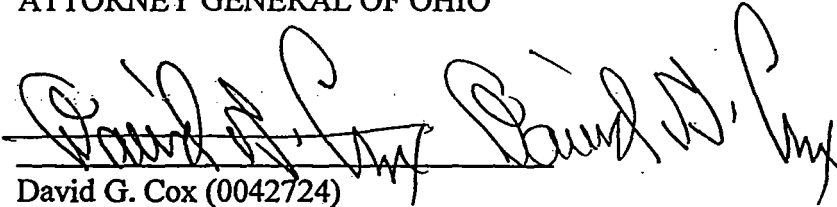
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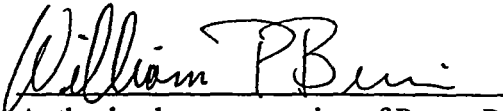
JUDGE, COURT OF COMMON PLEAS
LUCAS COUNTY

APPROVED:

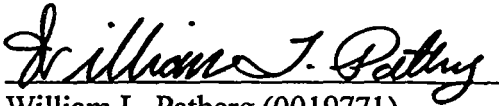
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