

E1910344
Filed 6/27/94

IN THE COURT OF COMMON PLEAS
BROWN COUNTY

STATE OF OHIO, ex rel.	:	CASE NO. <u>94 CV 35249</u>
LEE FISHER, ATTORNEY	:	
GENERAL OF OHIO	:	JUDGE:
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
RELIABLE CASTINGS	:	
CORPORATION,	:	
	:	
Defendant	:	

CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff, State of Ohio, ex rel. Lee Fisher, Attorney General of Ohio, having filed the Complaint in this action against Defendant Reliable Castings Corporation (hereinafter " Defendant" or "Reliable") alleging violations of Chapter 3734 of the Revised Code and rules adopted thereunder, and Plaintiff and Defendant having consented to the 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. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

II. PARTIES

2. The provisions of this consent order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with them who receives actual notice of this consent order whether by personal service or otherwise.

III. SATISFACTION OF LAWSUIT

3. Plaintiff has alleged in its Complaint that solid and hazardous wastes belonging to the Defendant were transported and disposed in violation of Chapter 3734 of the Ohio Revised Code and the regulations adopted thereunder. Plaintiff recognizes that such activities were caused, at least in part, by the intervening actions of persons other than the Defendant. Plaintiff also recognizes that, when notified by the Ohio EPA, Defendant acted promptly to remedy the resulting environmental conditions, including but not limited to, the proper removal of hazardous and solid wastes and affected soil from the area around the intersection of Fishing Gut and New Balconey Roads, Brown County, Ohio, and the lawful disposal of such materials. The parties are entering into this consent order to resolve disputed claims alleged in the complaint. By entering into this consent order, Defendant does not

admit to any fact, violation of law or other liability alleged in the complaint. Compliance with the terms of this consent order shall constitute full accord and satisfaction of Plaintiff's claims as set forth in the complaint for any civil liability of Defendant to the State of Ohio arising from the facts alleged in the complaint.

4. Nothing in this consent shall limit the authority of Plaintiff to:

(a) Seek relief for claims or conditions based on facts not alleged in the complaint;

(b) Seek relief for claims or conditions alleged in the complaint which occur after the entry of this consent order;

(c) Enforce this consent order through a contempt action or otherwise for violations of this consent order;

(d) Bring any action against Defendant or against any other person, under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. § 9601, et seq. and/or Ohio Revised Code Sections 3734.20 through 3734.27 to: (1) recover natural resource damages, and/or (2) to order the performance of, and/or recover costs for any removal, remedial or corrective activities not conducted pursuant to the terms of this consent order.

(e) Take any action authorized by law against any person, including Defendant, to eliminate or mitigate conditions at the intersection of Fishing Gut and New Balconey Roads, Brown County, Ohio, which may present an imminent threat to the public health or welfare, or the environment.

5. Defendant reserves its rights to contest any subsequent claims made by the Plaintiff pursuant to the reservation of rights contained in Paragraph Four (4) above.

IV. CIVIL PENALTY

6. Defendant is ordered and enjoined to pay to the State of Ohio a civil penalty in the amount of Ten Thousand Dollars (\$ 10,000). This amount shall be paid by delivering to Plaintiff, c/o Lyndia Jennings, or her successor at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410, a certified check in that amount, payable to the order of "Treasurer, State of Ohio" within thirty (30) days from the date of entry of this consent order. This civil penalty shall be deposited into the hazardous waste clean-up fund created by O.R.C. Section 3734.28.

V. INJUNCTIVE RELIEF

7. Defendant is ordered and enjoined to comply with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R.C. Chapter 3734 and O.A.C. Chapters 3745-50 through 3745-69. Specifically, Reliable is enjoined to maintain compliance with all applicable generator requirements set forth in O.A.C. Chapter 3745-52. In addition, Reliable is also enjoined from disposing of hazardous wastes at, or transporting hazardous wastes to, premises other than those authorized by Section 3734.02(F) (1) through (5) of the Ohio Revised Code.

VI. COMPLIANCE WITH APPLICABLE LAWS

8. Nothing herein shall affect Defendant's obligation to comply with all applicable federal, state, or local laws, rules or ordinances.

VII. PLAINTIFF'S LITIGATION COSTS

9. For Plaintiff's litigation costs in investigating and prosecuting this case, Defendant is ordered and enjoined to reimburse the Attorney General's Office in the amount of Six Thousand Nine Hundred Dollars (\$6,900). This reimbursement shall be paid by delivering a certified check for that amount payable to the order of "Treasurer, State of Ohio" within thirty (30) days of entry of this order in the manner provided in paragraph 6 above.

VIII. INVESTIGATIVE COSTS

10. Defendant is ordered and enjoined to pay the investigative costs of the Ohio Environmental Protection Agency expended in pursuing the instant action, totalling Nine Thousand Four Hundred Ninety-Two Dollars (\$9,492.00) by delivering a certified check in such an amount to the order of "Treasurer, State of Ohio" within thirty (30) days after entry of this order in the manner provided in paragraph 6 above.

IX. BROWN COUNTY LITTER CONTROL PROGRAM

11. In addition to the payments set forth above, Defendant shall pay to Brown County the amount of Five Thousand Dollars (\$5,000). This amount shall be paid by delivering a certified check for that amount, payable to the order of "Treasurer, Brown County" within thirty (30) days from the date of this entry. The check shall be mailed to the office of Brown County Prosecutor

R. Alan Corbin. This amount shall be paid to the Brown County Litter Control Program.

X. BROWN COUNTY PENAL PROGRAM

12. In addition to all other payments set forth herein, Defendant shall also pay to Brown County the amount of Six Thousand Three Hundred Dollars (\$6,300) to be paid into the Brown County Penal Program. This amount shall be paid by delivering to Brown County Prosecutor R. Alan Corbin a certified check for that amount payable to the order of "Treasurer, Brown County" within thirty (30) days from the date of entry of this order.

XI. RETENTION OF JURISDICTION

13. This Court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

14. If the Attorney General and the Defendant agree that the Defendant has complied with all provisions of this Order and all applicable provisions of R.C. Chapter 3734 and the regulations adopted thereunder for a period of two years consecutively, commencing from the date of the filing of this Order, the Defendant may petition the Court to terminate the Consent Order in this case.

XII. COSTS

15. Defendant is hereby ordered to pay all court costs and fees of this action.

XIII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

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.

SIGNED:

JUDGE _____

**BROWN COUNTY
COURT OF COMMON PLEAS**

APPROVED:

LEE FISHER
ATTORNEY GENERAL OF OHIO

By:



E. DENNIS MUCHNICKI (0040174)

DAVID G. COX (0042724)

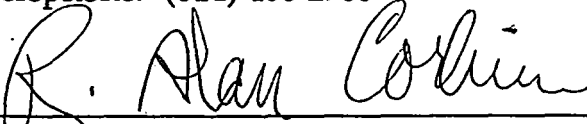
Assistant Attorneys General

Environmental Enforcement Section

30 East Broad Street, 25th Fl.

Columbus, Ohio 43266-0410

Telephone: (614) 466-2766



R. ALAN CORBIN, BROWN COUNTY PROSECUTOR (0022667)

200 East Cherry Street

Georgetown, Ohio 45121

Attorneys for the State of Ohio

DEFENDANT RELIABLE CASTINGS CORPORATION

BY:



AUTHORIZED REPRESENTATIVE

BY:



A. CHRISTIAN WORRELL III (0030121)

Graydon, Head & Ritchey

P. O. Box 6464

1900 Fifth Third Center

511 Walnut Street

Cincinnati, Ohio 45201

(513) 629-2701

Attorney for Defendant