

96CV 0136

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO
30 East Broad Street
Columbus, Ohio 43215-3428

Plaintiff,

v.

JERRY D. SALES
dba Jerry's Professional Quality Cleaners
1002 Franklin Avenue
Kent, Ohio 44240

Defendant.

CASE NO. _____
JUDGE JUDGE GEORGE E. MARTIN

CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio by its Attorney General Betty D. Montgomery (hereinafter "Plaintiff") and Defendant Jerry D. Sales, dba Jerry's Professional Quality Cleaners, (hereinafter "Jerry D. Sales") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, and upon consent of the parties hereto, and without admission of fact or liability by Jerry D. Sales, 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. "Air contaminant source", or "source", has the same meaning as that set forth in Ohio Rev. Code §3704.01(C) and Ohio Administrative Code Rules 3745-31-01(D) and 3745-35-01(B)(1).
 - b. "Consent Order", or "Order", means this Order and Final Judgment.
 - c. "Facility" means Defendant Jerry D. Sales's dry cleaning facility and all related operations located at 1002 Franklin Avenue, Kent, Portage County, Ohio.
 - d. "O.A.C." means the Ohio Administrative Code.

- e. "Ohio EPA" means the Ohio Environmental Protection Agency.
- f. "Permit to Install", or "PTI", has the same meaning as set forth in O.A.C. Chapter 3745-31.
- g. "Permit to Operate", or "PTO", has the same meaning as set forth in O.A.C. Chapter 3745-35.

II. JURISDICTION AND VENUE

2. 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 Defendant under Chapter 3704 of the Ohio Revised Code, and venue is proper in this Court.

III. PARTIES

3. 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 or privity with any of them.

IV. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint, *inter alia*, that Jerry D. Sales has operated perchloroethylene dry cleaning equipment at 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 by Defendant for all violations under such laws alleged in the Complaint. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations not alleged in the Complaint, including violations which occur after the entry of this Consent Order.

V. INJUNCTION

A. Compliance With Permits and Permitting Requirements

5. Jerry D. Sales agrees to refrain and is permanently enjoined from "installing" or "modifying" any "air contaminant source", as those terms are defined in O.A.C. Rule 3745-31-01(I), (J), and (C), at the Facility without first applying for and obtaining a Permit to Install

from the Director of Ohio EPA in accordance with O.A.C. Rule 3745-31-02(A), unless the source is exempted from the requirement to obtain a Permit to Install by the State of Ohio's statutes or regulations.

6. Except as authorized under Ohio Rev. Code §3704.03(F), Jerry D. Sales agrees to refrain and is permanently enjoined from operating any air contaminant source, as that term is defined in O.A.C. Rule 3745-35-01(B)(1), at the Facility without first applying for and obtaining a Permit to Operate from Ohio EPA in accordance with O.A.C. Rule 3745-35-02(A), unless the source is exempted from the requirement to obtain a Permit to Operate by the State of Ohio's statutes or regulations.

7. Jerry D. Sales agrees and is permanently and immediately enjoined and ordered to comply with all terms and conditions of all Permits to Install and Permits to Operate which are issued to him for air contaminant sources at the Facility.

8. Jerry D. Sales agrees and is permanently and immediately enjoined and ordered to maintain records which adequately and accurately document the amount of actual emissions of perchloroethylene emitted from the dry cleaning equipment at the Facility. Additionally, Jerry D. Sales shall, on an annual basis, accurately identify and report to the Akron Regional Air Quality Management District the amount of perchloroethylene emitted from the dry cleaning equipment at the Facility. Such annual reports shall be due thirty (30) days after the end of each year.

B. Placement of an Advertisement in *The Clean Times*

9. Defendant Jerry D. Sales agrees and is hereby enjoined and ordered to place an advertisement, attached hereto as Attachment A, in the Ohio Cleaners Association's bi-monthly publication, *The Clean Times*, for a period of one (1) year (i.e., six (6) issues). ~~Such advertisement shall be placed and paid for by Defendant Jerry D. Sales in such a manner that the advertisement appears in all 1996 issues of that publication.~~

DJR
wch

10. Defendant Jerry D. Sales agrees and is hereby enjoined and ordered to provide proof of his compliance with paragraph 9 of this Order (i.e., proof of publication) to Ohio EPA, Central Office, Division of Air Pollution Control and the State of Ohio Attorney General's Environmental Enforcement Section. Such notice shall be received by the above-listed entities not later than thirty (30) days after each publication of Attachment A pursuant to paragraph 9 of this Order.

VI. CIVIL PENALTY

11. Defendant Jerry D. Sales shall pay a civil penalty of Three Thousand, Two Hundred, Ninety-Three Dollars (\$3,293.00). The payment of this amount, however, is suspended upon the condition that Defendant Jerry D. Sales complies with the terms of paragraph 9 of this Consent Order.

VIII. RETENTION OF JURISDICTION

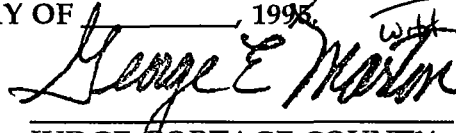
12. The court will retain jurisdiction of this action for the purpose of enforcing this Consent Order.

IX. COSTS

13. Defendant Jerry D. Sales is hereby ordered to pay the costs of this action.

IT IS SO ORDERED:

ENTERED THIS _____ DAY OF _____, 1998

6 Dec
with


JUDGE, PORTAGE COUNTY
COURT OF COMMON PLEAS

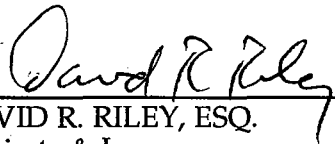
APPROVED:

JERRY D. SALES
dba Jerry's Professional Quality Cleaners

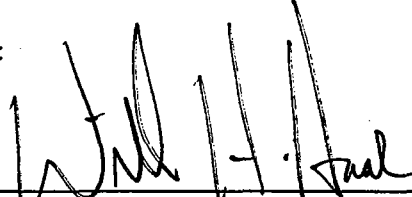
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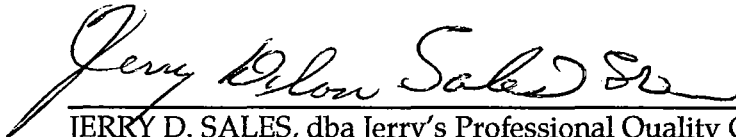
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BY:



JERRY D. SALES, dba Jerry's Professional Quality Cleaners