

IN THE
COURT OF COMMON PLEAS
CLARK COUNTY, OHIO

STATE OF OHIO, *ex rel.* :
ANTHONY J. CELEBREZZE, JR. :
ATTORNEY GENERAL OF OHIO, :
Plaintiff, :
v. :
SPECO CORPORATION, :
Defendant. :

CASE NO. 90-CIV-2
JUDGE RICHARD T. COLE

CONSENT ORDER

Oct 10 11 51 AM '90
FILED
RON VINCENT, CLERK
COMMON PLEAS COURT
CLARK COUNTY, OH

Plaintiff, State of Ohio, ex rel. Anthony J. Celebrezze, Jr., Attorney General of Ohio, having filed the Complaint in this action against Defendant Speco Corporation, to enforce Chapter 3734. of the Ohio Revised Code ("RC"), i.e., the state hazardous waste statutes and rules, at Defendant's Clark County, Ohio facility, located at 2941 Baker Road, Springfield, Ohio (hereinafter the "Speco facility") and Plaintiff and Defendant having consented to entry of this Consent Order;

Therefore, without trial 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

1. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, board of directors, officers, employees, assigns, successors, and those persons in active Consent concert or participation with them who receive notice of this Consent Order whether by personal service or otherwise.

II. STATEMENT OF PURPOSE

2. In entering into this Consent Order, the mutual objective of the parties to this action is to have Defendant Speco Corporation fully comply with all state hazardous waste laws and regulations, i.e., RC Chapter 3734. and the rules adopted thereunder.

III. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this case. Venue is appropriate in this Court. The Complaint states a claim upon which relief can be granted against Defendant Speco Corporation. Defendant has executed this Consent Order without trial or adjudication of any issue of fact or law. Accordingly, neither Defendant's execution of this Consent Order nor Defendant's compliance with any of the provisions herein shall be deemed or construed to be an admission of liability, or an estoppel by Defendant Speco Corporation and nothing in this Consent Order is intended by the parties to be, nor shall it be, an admission of law or fact by Defendant, except that Defendant shall be liable for and shall be required to do that which it is required to do by this Consent Order. Furthermore, nothing herein shall be construed to effectuate a waiver of any applicable defenses by Defendant in any action to enforce this Consent Order and nothing herein shall be construed to effectuate a waiver of any defenses by Defendant to actions brought by Plaintiff regarding matters not covered by this Consent Order and to actions brought by others for any matters.

IV. CONTINUING JURISDICTION

4. This Court shall retain jurisdiction over this action for the purpose of overseeing the implementation of this Consent Order.

V. SATISFACTION OF CLAIMS AND EFFECT UPON OTHER ACTIONS

5. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil or administrative liability by Defendant Speco Corporation, its agents, board of directors, officers, employees, successors, assigns and former officers and employees, to Plaintiff for all matters alleged in the Complaint herein which occurred prior to December 31, 1989. For actions beyond the terms and scope of this Consent Order, Plaintiff reserves the right to take any enforcement action pursuant to any available legal authority, including the right to seek injunctive relief and monetary penalties. It is specifically recognized that Plaintiff reserves all rights to bring any action for alleged violations of RC Chapter 6111. regarding this facility.

6. This Consent Order shall not be construed so as to preclude Plaintiff or its agencies from seeking from Defendant Speco Corporation or others remedial or corrective action or additional monitoring or testing at the Speco facility as a result of Defendant's waste-handling practices at said facility. This Consent Order shall not be construed so as to preclude Plaintiff or its agencies from seeking monetary, injunctive, or other relief against Defendant for alleged violations other than those referred to in the Complaint.

This Consent Order shall also not be construed so as to preclude Plaintiff or its agencies from seeking any form of relief against Defendant as a result of its operation of facilities other than the Speco facility, regardless of when the matters occurred. Nothing herein shall be construed to limit the authority of Plaintiff to undertake any action against any person, including Defendant, to eliminate or mitigate conditions arising after the date hereof which may present an imminent endangerment to the public health, welfare or the environment.

VI. RIGHT OF ENTRY

7. During the effective time of this Consent Order, Plaintiff, its agents and employees shall have authority to enter, without a search warrant, at a reasonable time, into and onto the Speco facility to inspect and/or take appropriate samples. This provision in no way limits Plaintiff's statutory or permit authority to conduct inspections and/or to take samples.

VII. CIVIL PENALTY

8. It is hereby ordered that Defendant Speco Corporation shall pay a civil penalty of thirty two thousand five hundred Dollars (\$32,500.00). This civil penalty shall be paid by check made payable to "Treasurer, State of Ohio", which check shall be delivered by mail, or otherwise, to Retanio Aj Rucker, Assistant Attorney General, at his 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 to be credited by the State of Ohio to the Ohio Hazardous Waste Clean-up Fund.

VIII. GENERAL INJUNCTION

9. Defendant Speco Corporation is enjoined to comply with all applicable laws and regulations contained in RC Chapter 3734. and the rules adopted thereunder and to comply with any hazardous waste permits it presently has or may hereinafter obtain regarding the Speco facility.

IX. INJUNCTION REQUIRING LEGAL STORAGE, TRANSPORTATION, DISPOSAL AND MANIFESTING OF HAZARDOUS WASTE

10. Defendant Speco Corporation is permanently enjoined to manage, store, transport and dispose of hazardous waste only at or to the off-site premises or facilities listed in RC Section 3734.02(F). Defendant is further enjoined to manifest any hazardous waste it offers for off-site treatment, storage or disposal in accordance with the requirements of Rules 3745-52-20 and 3745-52-23 of the Ohio Administrative Code ("OAC").

X. INJUNCTION REQUIRING CLOSURE AND IMPLEMENTATION

11. Defendant Speco Corporation is ordered to submit an approvable closure plan and closure cost estimate for the underground storage tank, to the Director of Environmental Protection, P.O. Box 1049, 1800 Watermark Drive, Columbus, Ohio 43266-0149 and Mr. David Combs of the Ohio Environmental Protection Agency ("Ohio EPA"), Southwest District Office, 40 South Main

Street, Dayton, Ohio 45402 within sixty (60) days of the Court's entry of this Consent Order.

12. This closure plan and cost estimate must comply with the requirements of OAC Rules 3745-66-10 to 3745-66-15, 3745-66-42 and 3745-66-97. If the Ohio EPA disapproves part or all of the closure plan and/or closure cost estimate or comments upon part or all of the closure plan and/or closure cost estimate, Defendant Speco Corporation shall resubmit the disapproved portion(s) or portions to which the Ohio EPA has commented, in approvable form pursuant to OAC Rule 3745-66-12. Defendant is ordered to implement the closure plan already approved by Ohio EPA on December 20, 1989 for the container storage area and the closure plan for the underground storage tank as approved by Ohio EPA or as approved with terms and conditions in the time limit as specified in OAC Rule 3745-66-13 or alternatively as stated in the approved plan. If Defendant cannot accomplish a clean closure so that all of the hazardous waste and their constituents are removed from all hazardous waste treatment, disposal and/or storage units and soils surrounding the units at the Speco facility, including the underground storage tank, Defendant may seek to amend its closure plan, pursuant to OAC Rule 3745-66-12. Should Defendant seek to amend its closure plan, it shall submit an amended closure plan to the Ohio EPA at the addresses provided for in this section within thirty (30) days of Defendant's learning that it cannot complete closure in accordance with the approved closure plan. The amended closure plan shall comply

with the requirements of OAC Rules 3745-66-10 to 3745-66-20, 3745-66-97 and 3745-68-10. If Ohio EPA determines that Defendant is not entitled to amend its closure plan, then Defendant shall implement the closure plan as previously approved. If Ohio EPA disapproves part or all of the amended closure plan, Defendant shall resubmit the disapproved portion(s) in approvable form within sixty (60) days of Ohio EPA's disapproval or notice of deficiency.

XI. INJUNCTION REQUIRING FINANCIAL RESPONSIBILITY

13. Defendant Speco Corporation shall establish the following financial responsibility within thirty (30) days of the Court's entry of this Consent Order, and shall submit proof of such establishment to the Director of Environmental Protection, P.O. Box 1049, Division of Solid and Hazardous Waste Management, 1800 Watermark Drive, Columbus, Ohio, 43266-0149 and the Ohio Attorney General's Office, at the address provided above for Retanio Aj Rucker, Assistant Attorney General within thirty (30) days of the Court's entry of this Consent Order:

- (a) Defendant has already submitted a closure cost estimate for closure of the container storage area. Upon notice from the Ohio EPA that this estimate or the estimate for the underground storage tank at the facility does not meet the requirements of OAC Rule 3745-66-42, Defendant shall resubmit the estimate addressing Ohio EPA's comments;
- (b) Financial responsibility for closure of the Speco facility, in conformity with OAC Rule 3745-66-43.

Nothing in this Consent Order shall preclude Plaintiff from seeking that Defendant obtain post-closure financial assurances should Defendant not be able to accomplish a clean closure, as referred to in Paragraph 12 above. Furthermore, nothing in this Consent Order shall relieve Defendant from any liability it may have for violations of the financial responsibility requirements occurring after the Court's approval of this Consent Order.

**XII. INJUNCTION REQUIRING EVALUATION OF WASTE
GENERATED AT THE SPECOS FACILITY**

14. Defendant Speco Corporation is ordered to comply with OAC Rule 3745-52-11 in that Defendant shall evaluate all wastes generated by Defendant at the Speco facility to determine whether such wastes are "hazardous wastes" as defined under RC Chapter 3734. and the regulations adopted thereunder.

XIII. INJUNCTION REQUIRING OPERATING RECORDS

15. Defendant Speco Corporation is ordered to comply with OAC Rules 3745-52-40 and 3745-65-73 so long as those sections are applicable to the Speco facility in that Defendant shall maintain all written operating records, required by such rules, at the Speco facility, including but not limited to a complete inventory of descriptions and quantities of each hazardous waste received and managed and the location of each waste at said facility.

**XIV. INJUNCTION REQUIRING THE LABELLING, MARKING
AND PLACARDING OF HAZARDOUS WASTE CONTAINERS
AND THE NOTATION OF ACCUMULATION DATES ON
CONTAINERS OF HAZARDOUS WASTES**

16. Defendant Speco Corporation is ordered to comply with OAC Rules 3745-52-31 through 3745-52-34 in that Defendant shall label, mark and placard hazardous waste before it is transported or offered to be transported off-site. Moreover, Defendant shall clearly mark and make visible for inspection on each container of hazardous waste to be accumulated at the Speco facility the date upon which the period of accumulation began. Defendant shall further label or mark clearly with the words "Hazardous Waste" each container or tank which will be used to accumulate hazardous waste.

XV. COURT COSTS

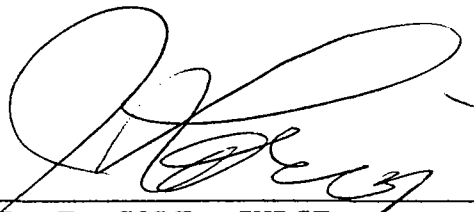
17. Defendant Speco Corporation shall pay the court costs of this action.

XVI. MISCELLANEOUS

18. No earlier than two (2) years from the date of the Court's entry of this Consent Order, Defendant Speco Corporation may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate the permanent injunction provisions of this Consent Order if Defendant can demonstrate that it has been in compliance with the obligations of this Consent Order for such two (2) year period. Plaintiff takes no position as to such motion, and reserves any rights it may have to oppose the motion including the basis that the two (2) year period is, in actuality, not an appropriate time.

19. Nothing in this Consent Order shall prohibit Defendant Speco Corporation from becoming a "generator" of "hazardous waste" rather than being a "facility" or "hazardous waste facility", as those terms are defined in RC Chapter 3734. and the rules promulgated thereunder, provided, however, that Defendant shall first complete closure in accordance with the provisions of this Consent Order and provide certification to the Director of Environmental Protection at the address provided for above pursuant to OAC Rule 3745-66-15, which certification meets with the approval of the Director of Environmental Protection, and Defendant shall submit a request for withdrawal of its permit in accordance with OAC Rule 3745-50-47 after completion of all required closure activities. With respect to those hazardous wastes currently being generated by Defendant which Defendant does not treat, store (for a period in excess of ninety (90) days) or dispose of at the Speco facility, as such terms are defined in RC Chapter 3734. and regulations promulgated thereunder, Defendant shall be subject only to those portions of RC Chapter 3734. and the regulations promulgated thereunder, governing generators and transporters of hazardous waste as such terms are defined therein.

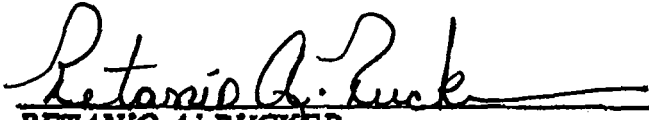
ENTERED THIS 9 DAY OF Oct, 1990.



RICHARD T. COLE, JUDGE
Clark County Court of Common Pleas

By the signatures below, each of the parties named consents to this Decree:

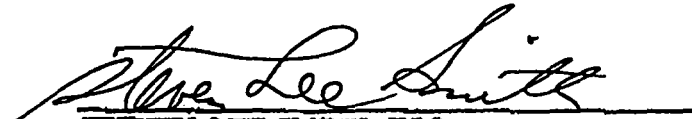
STATE OF OHIO, *ex rel.*
ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO



RETANIO A J RUCKER
Assistant Attorney General

Environmental Enforcement
30 East Broad Street, 25th Fl.
Columbus, Ohio 43266-0410
(614) 466-2766

Attorney for Plaintiff
State of Ohio



STEVEN LEE SMITH, ESQ.
Matan & Smith
261 South Front Street
Columbus, Ohio 43215
(614) 228-2678

Attorney for Defendant
Speco Corporation

SPECO CORPORATION

BY:



(NAME) Lewis E. Wise
(TITLE) President

Authorized Representative for
Defendant Speco Corporation

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