

IN THE COURT OF COMMON PLEAS
HOLMES COUNTY, OHIO

STATE OF OHIO, EX REL.)	CASE NO. 83-C-129
ANTHONY J. CELEBREZZE, JR.)	40-12988
ATTORNEY GENERAL OF OHIO)	
)	
Plaintiff,)	
)	
v.)	
)	
UNION CHEESE COMPANY,)	
ET AL.)	
)	
Defendants.)	<u>CONSENT JUDGMENT</u>

The Complaint having been filed in this matter on July 1, 1983, under Chapters 6111. and 3767. of the Ohio Revised Code by Plaintiff State of Ohio, and the parties having consented by and through their attorneys to the entry of this Consent Decree on the Journal of this Court.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction over the subject matter of this action and over the persons of Defendants Dominic Gangale and Gangale and Sons, Inc. dba Union Cheese Company.

II.

Plaintiff's Complaint states a claim for which relief may be granted.

III.

This Consent Decree is binding upon Gangale and Sons, Inc., the owner and operator of Defendant Union Cheese Company, Dominic Gangale, any employees of them, and any person having actual notice

of the terms of this Consent Decree who acts in concert or privity with any of them.

IV.

Plaintiff claims Defendants have violated the provisions of Revised Code Section 6111.04. In settlement of the civil penalty claim, Defendants agree to pay to the State a civil penalty of One Hundred Twenty Thousand Dollars (\$120,000.00) in such manner as Plaintiff shall direct in writing.

V.

Defendants are permanently enjoined from dumping, depositing, or otherwise placing whey on the land within the State of Ohio, without a permit or plan approval issued, in advance, by the Director of Ohio EPA. Defendant Union Cheese Company shall withdraw its application for land application approval by the Director of Environmental Protection within thirty (30) days of the agreement of the parties to this Consent Decree. Defendant Union Cheese Company shall be subject to the same obligations and shall be entitled to the same rights as other cheese manufacturers in the State of Ohio.

VI.

Defendant Union Cheese Company has purchased and installed all equipment necessary to refrigerate, store, and transport all whey produced at its Holmes County plant to facilities utilizing whey as a raw material in their process.

Defendants shall apply for all permits and/or plan approvals required, if any, by Federal and State statute and regulation for installation and operation of such equipment as soon as is practicable, but no later than forty-five (45) days after the agreement of the parties to this Consent Decree. Ohio EPA shall rule on said applications submitted to it within one hundred and eighty (180) days of the receipt by Ohio EPA of complete applications. Until such time as Defendants install and operate a whey evaporator at Defendant Union Cheese Company's Holmes County plant, Defendants shall use such equipment to refrigerate, store, and transport all whey produced at Defendant Union Cheese Company's Holmes County plant to facilities utilizing whey as a raw material in their process, unless otherwise authorized by Ohio EPA in advance.

Defendants shall obtain a receipt for each truck load of whey delivered to such a facility, signed by receiving personnel or some other supervisory authority at such facility, indicating the date and time of the delivery, name and address of the facility to which the load was delivered, and the amount delivered. Defendants shall mail a copy of each such receipt to the Industrial Wastewater Unit of Ohio EPA's Twinsburg, Ohio, office on a weekly basis, unless otherwise authorized in advance by said Twinsburg, Ohio, office of Ohio EPA.

VII.

Defendants agree to purchase and install a whey evaporator, subject to the availability of financing. If Defendants obtain a commitment for financing for said evaporator within twelve (12) months of the agreement of the parties to this Consent Judgment, and install such whey evaporator at Union Cheese' plant as expeditiously as possible thereafter, then the amount due pursuant to Paragraph IV, shall be reduced to Forty-five Thousand Dollars (\$45,000.00). Defendants shall obtain all permits or approvals required under Federal and Ohio law in connection with installation and operation of such whey evaporator.

VIII.

Defendants shall pay the civil penalties provided in this judgment as follows:

- A. If the Defendants obtain a commitment for financing for the evaporator as set forth in Paragraph VII of the Consent Judgment, the Forty-five Thousand Dollars (\$45,000.00) shall be due and payable as follows:
1. Five Thousand Dollars (\$5,000.00) on or before April 1, 1985;
 2. Five Thousand Dollars (\$5,000.00) on or before March 30, 1986;
 3. Five Thousand Dollars (\$5,000.00) on or before March 30, 1987;
 4. Fifteen Thousand Dollars (\$15,000.00) on or before March 30, 1988;
 5. Fifteen Thousand Dollars (\$15,000.00) on or before March 30, 1989.

B. In the event that Defendants do not obtain such commitment referred to in the subparagraph above, the payment of the One Hundred Twenty Thousand Dollars (\$120,000.00) due pursuant to Paragraph IV of said Consent Judgment shall be due and payable as follows:

1. Five Thousand Dollars (\$5,000.00) on or before April 3, 1985;
2. Ten Thousand Dollars (\$10,000.00) on or before March 30, 1986;
3. Fifteen Thousand Dollars (\$15,000.00) on or before March 30, 1987;
4. Thirty Thousand Dollars (\$30,000.00) on or before March 30, 1988;
5. Thirty-five Thousand Dollars (\$35,000.00) on or before March 30, 1989; and
6. Twenty-five Thousand Dollars (\$25,000.00) on or before March 30, 1990.

C. Payment may be made by contribution of such equipment as Plaintiff shall specify or in cash as Plaintiff shall direct. Cash payments shall be made by a certified check made payable to: any State fund specified by Plaintiff in advance of such payment.

D. In the event for any reason payment of any of the installments provided for above is not made when due, Plaintiff shall be entitled to immediate payment of the entire sum then owed, which payment it may demand if and when it deems appropriate.

IX.

Defendants shall construct a third lagoon to provide additional treatment for the sewage, industrial wastes, and/or other wastes currently treated by the package sewage treatment plant installed at Defendant Union Cheese Company's Holmes County plant in accordance with the drawings and specifications submitted for the first two lagoons, except that said third lagoon may be

larger in width and length, as soon as possible and in no event later than one hundred eighty (180) days of the agreement of the parties to this Consent Decree.

Upon completion of said third lagoon, the effluent discharged from Defendant Union Cheese Company's package sewage treatment plant shall not exceed any of the effluent limitations contained in Defendant Union Cheese Company's NPDES permit.

X.

Defendants are permanently enjoined from polluting the waters of the State or any other manner violating any provisions of Chapter 6111. of the Ohio Revised Code and any administrative regulation promulgated thereunder.

XI.

Defendants are permanently enjoined to comply in all respects with all permits or plan approvals issued or hereinafter issued by Ohio EPA to Defendants or any of them pursuant to the provisions of Chapter 6111. of the Ohio Revised Code, and any administrative regulation promulgated thereunder.

XII.

Defendants shall dispose of and/or reclaim existing ponds or surface impoundments, if any, in which Union Cheese deposited whey in an environmentally sound manner approved of in advance by Marty Hilovsky of Ohio EPA and Tom Weber of Water Management, Inc. Defendants shall collect and properly dispose of in any lawful manner approved in advance by Marty Hilovsky of Ohio EPA and Tom Weber of Water Management, Inc., any lechate from any pit or pond in which Union Cheese deposited whey.

XIII.

This Judgment is a final adjudication of all claims contained

in Plaintiff's Complaint and all claims of a similar nature arising under Chapter 6111. and Chapter 3767. of the Ohio Revised Code and the regulations adopted thereunder to the date of this Judgment. Costs taxed to Defendant Gangale & Sons, Inc. No record. This court shall retain jurisdiction over this matter until Defendants have complied with all of the affirmative provisions of this Judgment.

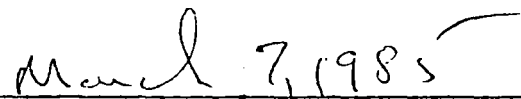
SO ORDERED.

APPROVED:



HOMER RICHARDS
BLACK, McCUSKEY, SOUERS & ARBAUGH
Attorney for Defendants Dominic
Gangale and Gangale and Sons, Inc.
dba Union Cheese Company
1200 Harter Bank Building
Canton, Ohio 44702
Telephone: (216) 456-8341

JUDGE


DATE

APPROVED:

TERRENCE M. FAY
Assistant Attorney General
Environmental Enforcement Section
State Office Tower
30 East Broad St., 17th Floor
Columbus, Ohio 43215
Telephone: (614) 466-2766

DATE

IN THE COURT OF COMMON PLEAS
HOLMES COUNTY, OHIO

STATE OF OHIO, ex rel. : FILED
ANTHONY J. CELEBREZZE, JR., : Case No. 83-C-129
ATTORNEY GENERAL OF OHIO, '88 APR 26 AM 9 56 40-12988

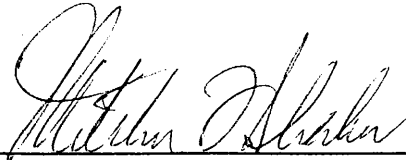
Plaintiff, DORCAS MILLER, CLERK
v. COMMON PLEAS COURT
HOLMES COUNTY, OHIO JUDGE SHAKER
(Sitting by Assignment)
UNION CHEESE COMPANY, et al., :
Defendants. : JOURNAL ENTRY

This matter came on for hearing of Plaintiff State of Ohio's Charges in Contempt. Upon agreement of counsel, this Court finds as follows: 1) On April 10, 1985, this Court entered a Consent Judgment in which the Defendants, Gangale and Sons, Inc., dba Union Cheese Company, and Dominic Gangale were ordered to pay a civil penalty of One Hundred and Twenty Thousand Dollars (\$120,000.00) or, in the alternative, to purchase and install a whey evaporator and pay a civil penalty of Forty-Five Thousand Dollars (\$45,000.00); 2) Plaintiff State of Ohio has filed Charges in Contempt of Court alleging that Defendants violated the April 10, 1985 Consent Judgment by failing to make the full civil penalty payment assessed against them and failing to install a whey evaporator as provided in said Judgment.

Therefore, based upon the proceeding findings and the agreement of the parties, it is hereby ORDERED, ADJUDGED, and

J: 1/6
P. 305-
311

DECREED that the Defendants shall comply with the revised payment schedule as implemented in the attached Modification of Consent Judgment.

A handwritten signature in cursive script, appearing to read "John Shaker", written over a horizontal line.

JUDGE SHAKER
(sitting by assignment)

2127E

IN THE COURT OF COMMON PLEAS
HOLMES COUNTY, OHIO

STATE OF OHIO, ex rel.	:	
ANTHONY J. CELEBREZZE, JR.	:	Case No. 83-C-129
ATTORNEY GENERAL OF OHIO,	:	40-12988
	:	
Plaintiff,	:	JUDGE SHAKER
	:	(Sitting by Assignment)
v.	:	
	:	<u>MODIFICATION OF</u>
UNION CHEESE COMPANY, et al.,	:	<u>CONSENT JUDGMENT</u>
	:	
Defendants.	:	

The Charges in Contempt having been filed in this matter on January 19, 1988, by Plaintiff State of Ohio, and the parties having consented by and through their attorneys to the entry of this Modification of Consent Judgment on the Journal of this Court.

It is hereby ORDERED, ADJUDGED AND DECREED as follows:

I.

This Modification of Consent Judgment is binding upon Gangale and Sons, Inc., the owner and operator of Defendant Union Cheese Company, Dominic Gangale, any employees of them, and any person having actual notice of the terms of this Consent Judgment who acts in concert or privity with any of them.

II.

Defendants shall comply with the April 10, 1985 Consent Judgment, except as expressly modified within this Modification of Consent Judgment.

III.

Defendants shall pay to the State of Ohio a civil penalty of One Hundred Twenty Thousand Dollars (\$120,000.00) plus interest accrued in accordance with the payment schedule in paragraph V B.

IV.

Defendants shall purchase and install a whey evaporator, subject to the availability of financing. If Defendants obtain a commitment for financing for said evaporator within twelve (12) months of the agreement of the parties to this Modification of Consent Judgment, and install such whey evaporator at Union Cheese's plant as expeditiously as possible thereafter, then the amount due pursuant to Paragraph III shall be reduced to Seventy Thousand Dollars (\$70,000.00) plus interest accrued in accordance with the payment schedule in Paragraph V A. Defendants shall obtain all permits or approvals required under Federal and Ohio law in connection with installation and operation of such whey evaporator.

V.

Defendants shall pay the civil penalties provided in this judgment as follows:

- A. If the Defendants install the evaporator as set forth in Paragraph IV of this Modification of Consent Judgment, the Seventy Thousand Dollars (\$70,000.00) shall be due and payable in the following installments:
1. Five Thousand Dollars (\$5,000.00) has been previously paid by Defendants to Plaintiffs counsel.
 2. Five Thousand Dollars (\$5,000.00) on or before May 15, 1988.
 3. Five Thousand Dollars (\$5,000.00) on or before May 15, 1989.
 4. Five Thousand Dollars (\$5,000.00) on or before May 15, 1990.
 5. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1991.
 6. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1992.

Defendants shall pay interest of 8% per annum. Said interest shall accrue on the outstanding balance beginning on May 16, 1990.

- B. In the event that Defendants do not install the evaporator as set forth in Paragraph IV above, the payment of the One Hundred Twenty Thousand Dollars (\$120,000.00) pursuant to

Paragraph III of this Modification of Consent Judgment shall be due and payable in the following installments:

1. Five Thousand Dollars (\$5,000.00) has previously been paid by Defendant to Plaintiff's counsel.
2. Five Thousand Dollars (\$5,000.00) on or before May 15, 1988.
3. Five Thousand Dollars (\$5,000.00) on or before May 15, 1989.
4. Five Thousand Dollars (\$5,000.00) on or before May 15, 1990.
5. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1991.
6. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1992.
7. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1993.
6. Twenty-five Thousand Dollars (\$25,000.00) on or before May 15, 1994.

Defendants shall pay interest of 8% per annum. Said interest shall accrue on the outstanding balance beginning on May 16, 1990.

C. Payments shall be made by tendering a certified check to Plaintiff's attorney or his successor at 30 East Broad Street, 17th Floor, Environmental Enforcement Section, Columbus, Ohio 43266-0410. Said check shall be payable to the Treasurer of the State of Ohio.

VI.

This Judgment is a final adjudication of all claims contained in Plaintiff's Charges of Contempt. Costs taxed to Defendant Gangale & Sons, Inc.

SO ORDERED.



JUDGE SHAKER
(Sitting by Assignment)

APPROVED:



MARC B. MERKLIN
Brouse & McDowell
500 First National Tower
Akron, Ohio 44308-1471
Attorney for Defendants
Dominic Gangale and Gangale
and sons, Inc. dba Union
Cheese Company

4-20-88
DATE

APPROVED:



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4-8-88
DATE