

SUMMIT COUNTY
CLERK OF COURTS

SUMMIT COUNTY COURT OF COMMON PLEAS

STATE OF OHIO

SEP 26 10 54 AM '97

CV-02-2529

STATE OF OHIO, ex rel.
BETTY D. MONTGOMERY,
ATTORNEY GENERAL OF OHIO,

CASE NO. 97CV0792

JUDGE SCHNEIDERMAN,

Plaintiff,

v.

RANDY C. AUMSBAUGH

and

ENVIRONMENT TECHNOLOGY, INC.
(f.k.a.) Environment Technology of
Fort Wayne, Inc.

CONSENT ORDER

Defendants.

Plaintiff, State of Ohio, by its Attorney General, Betty D. Montgomery ("Plaintiff"), having filed the Complaint against Defendants Randy Aumsbaugh and Environment Technology, Inc. to enforce Ohio's asbestos handling and air pollution control laws set forth in Ohio Revised Code ("R.C.") Chapters 3704 and 3710 and the rules adopted thereunder, and the parties having consented to the entry of this Consent Order,

NOW 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

1. The Court has jurisdiction over the parties and the subject matter of this action, pursuant to R.C. Chapters 3704 and 3710 and the regulations adopted thereunder. The

Complaint states a claim upon which relief can be granted against Defendants under R. C. Chapters 3704 and 3710, and venue is proper in this Court.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon the Defendants to this action, their agents, representatives, officers, directors, employees, subsidiaries or divisions, assigns and successors in interest. In addition, the provisions of this Consent Order shall apply to and be binding upon those persons who receive actual notice of this Consent Order whether by personal service or otherwise who act in concert or participation with any of the entities identified above. This Consent Order does not apply to nor is it binding upon Environment Technology Consulting Corporation as long as Defendants do not own, operate or act in concert or participation with that business entity.

III. SATISFACTION OF LAWSUIT

3. Plaintiff alleges in its Complaint that Defendants have engaged in demolition/renovation operations involving asbestos or asbestos-containing materials, and that Defendants' demolition/renovation operations involving asbestos have resulted in numerous violations of R.C. Chapters 3704 and 3710 and the regulations adopted thereunder. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for the violations alleged in the Complaint, including all claims under R.C. Chapters 3704 and 3710 arising from violations associated with asbestos abatement work conducted by Defendants up to the date of entry of this Consent Order. Except as modified in the preceding sentence, nothing in this Consent Order shall be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not alleged in the Complaint or for violations of R.C.

Chapters 3704 and 3710 and the regulations adopted thereunder which occur after the filing of the Consent Order. Further, nothing in this Consent Order shall be construed to relieve the Defendants of their obligations to comply with applicable federal, state or local statutes, regulations or ordinances.

IV. PERMANENT INJUNCTION

4. Defendants agree and represent to the Court and are hereby ordered and enjoined, immediately upon entry of this Consent Order, not to engage in Ohio in any activity regulated under R.C. Chapter 3710 and the regulations adopted thereunder, and agree and represent to the Court and are hereby ordered and enjoined, immediately upon entry of this Consent Order, not to engage in Ohio in any activity regulated under R.C. Chapter 3704 and the regulations adopted thereunder.

5. Defendants agree and are hereby ordered and enjoined to relinquish, on or before the date of entry of this Consent Order, all asbestos abatement licenses and certifications issued by the Ohio Department of Health.

6. Defendants are hereby ordered and enjoined to have obtained, on or before the date of entry of this Consent Order, a letter of credit in the amount of \$34,790.00, the beneficiary of the letter of credit being the Director of Ohio EPA. Defendants are hereby ordered and enjoined to have obtained, on or before the date of entry of this Consent Order, a second letter of credit in the amount of \$5,210.00, the beneficiary of the second letter of credit being the Director of the Ohio Department of Health.

7. Defendants agree and it is hereby ordered that immediately upon entry of this Consent Order any and all applications for asbestos abatement licenses or certifications pending before the Ohio Department of Health are deemed withdrawn.

V. CIVIL PENALTY

8. For violations of R.C. Chapter 3704 and the regulations adopted thereunder, Defendants are enjoined and ordered to pay to the State of Ohio a civil penalty in the amount of One Hundred Thirteen Thousand Dollars (\$113,000.00). Of this amount, Seventy Eight Thousand Two Hundred Ten Dollars (\$78,210.00) shall be received by the Attorney General's office on or before 30 days after entry of this Consent Order, and Thirty Four Thousand Seven Hundred Ninety Dollars (\$34,790.00) shall be received by the Attorney General's office on or before October 2, 1998. The civil penalty shall be paid by Defendants by their delivering to 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, certified checks in those amounts, payable to the order of "Treasurer, State of Ohio," on or before the due dates listed above.

9. For violations of R.C. Chapter 3710 and the regulations adopted thereunder, Defendants are enjoined and ordered to pay to the State of Ohio a civil penalty in the amount of Seventeen Thousand Dollars (\$17,000.00). Of this amount, Eleven Thousand Seven Hundred Ninety Dollars (\$11,790.00) shall be received by the Department of Health on or before 30 days after entry of this Consent Order, and Five Thousand Two Hundred Ten Dollars (\$5,210.00) shall be received by the Department of Health on or before October 2, 1998. The civil penalty shall be paid by Defendants by their delivering to Plaintiff, Ohio Department of Health, attn:

Heather Ridewood, or her successor, accounts receivable unit, P. O. Box 15278, Columbus, Ohio 43215, certified checks in those amounts, payable to the order of "Treasurer, State of Ohio," on or before the due dates listed above. Upon Defendants being assigned an ODH customer number regarding payments to the ODH, Defendants shall note their customer number on their payment checks.

10. In the event the Attorney General's Office or the Department of Health does not receive payment on or before any one of the due dates listed above, then Defendants are enjoined and Ordered to pay the entire balance due of the civil penalty immediately upon default. However, Defendants shall be relieved of paying civil penalties in an amount equivalent to the amount of proceeds, benefits or monies awarded to and received by either the Director of Ohio EPA or the Director of the Department of Health pursuant to the letters of credit required by Paragraph number 6 of this Consent Order.

VI. STIPULATED PENALTIES

11. In the event that Defendants fail to comply with any of the requirements imposed by paragraphs 4, 5, 6, 8, 9 or 10 of this Consent Order, the Defendants shall, immediately and automatically, and in addition to all sums paid under the payment bond referenced in paragraph 6, be liable for and shall pay a stipulated penalty in accordance with the following schedule:

- a.) for each violation of paragraph 4, 6 or 10, Fifteen Thousand Dollars (\$15,000.00) per day per violation;
- b.) for each violation of paragraph 5, Five Thousand Dollars (\$5,000.00) per day per violation;
- c.) for each violation of paragraph 8 or 9, One Thousand Dollars (\$1,000.00) per day per violation.

12. In the event Defendants fail to meet any of the requirements of this Consent Order, the Defendants shall immediately and automatically be liable for payment of stipulated penalties imposed by this Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be paid by Defendants by their delivering to Plaintiff a certified check(s) in the appropriate amount(s), payable to the order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty. Payments for violations of Paragraph 8 shall be delivered to 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. Payments for violations of Paragraphs 4, 5, 9 and 10 shall be delivered to Plaintiff, c/o Heather Ridewood, or her successor, accounts receivable unit, P. O. Box 15278, Columbus, Ohio 43215. Payments for violations of Paragraph 6 shall be evenly divided between and a certified check(s) in the appropriate amount(s) shall be delivered to Plaintiff, c/o both Jena Suhadolnik and Heather Ridewood.

13. 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.

VII. RETENTION OF JURISDICTION

14. This Court will retain jurisdiction of this action for the purpose of enforcing compliance with this Consent Order.

VIII. COSTS

15. Defendants are hereby ordered to pay all court costs of this action.

IX. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

16. 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.

X. AUTHORITY TO ENTER INTO THE CONSENT ORDER

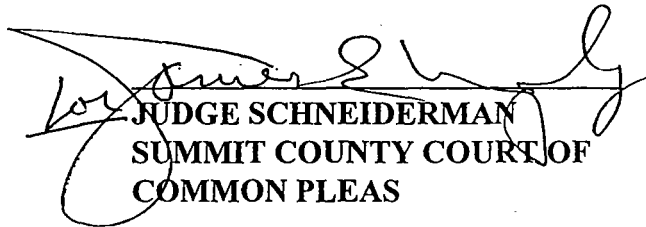
17. Each signatory for Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the corporation to all terms and conditions thereof. Each signatory for Defendant shall submit with this Consent Order an authenticated and certified resolution from Defendant establishing that he/she is so empowered to sign for and bind Defendant.

XI. NO ADMISSION OF VIOLATION

18. Defendants contested the allegations of violation set forth in the Complaint. The parties have entered into this Consent Order to resolve disputed claims. By entering into this Consent Order, the Defendants do not admit liability, fault or violation of any law or regulation.

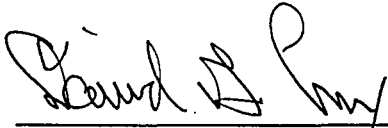
IT IS SO ORDERED

DATE

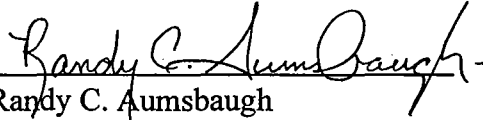

JUDGE SCHNEIDERMAN
SUMMIT COUNTY COURT OF
COMMON PLEAS

APPROVED:

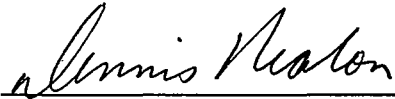
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO



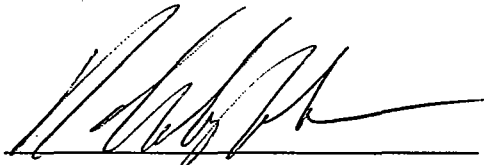
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Randy C. Aumsbaugh
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