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IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,

v.

EMPIRE PLATING COMPANY, INC.,

Defendant.

87 CV No. 12-8247

Judge

CONSENT JUDGMENT

THOMAS
Clerk of Court
1998 Nov -4 PM

The Plaintiff, State of Ohio, ex rel. Anthony J. Celebrezze, Jr., Attorney General of Ohio ("State" or "Plaintiff") having filed the Complaint in this action against Defendant Empire Plating Company, Inc. ("Empire Plating or Defendant"), to enforce the State industrial pretreatment statutes and rules, and Plaintiff and Defendant having consented to this Judgment:

THEREFORE, before the taking of any testimony, upon the pleadings, upon the consent of the parties hereto and pursuant to order of the Court, it is hereby ordered, adjudged and decreed as follows:

I. JURISDICTION

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. The Defendant consents to venue in Franklin County, Ohio.

II. SATISFACTION OF CLAIMS

Plaintiff alleges in its Complaint that Defendant has violated various provisions of the state industrial pretreatment laws and regulations. Defendant neither admits nor denies those allegations. Compliance with the terms of this Consent Judgment shall constitute full satisfaction of any civil or criminal liability by Defendant and all its parents, subsidiaries, employees, and former employees to the State of Ohio for all claims under such laws known to Plaintiff at this time. All such claims known to the State of Ohio have been alleged in the Complaint.

III. CIVIL PENALTY

Defendant shall pay a civil penalty of Five Thousand Dollars (\$5,000.00). This amount shall be paid by delivering to Plaintiff's counsel, at the following address, a certified check or money order, in the amount of Five Thousand Dollars (\$5,000.00), made payable to "Treasurer, State of Ohio":

Paul D. Hancock
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 17th Floor
Columbus, Ohio 43266-0410

The payment shall be made on or before December 31, 1987.

IV. REQUIREMENT OF APPLICATION FOR PTI WITH DETAILED
ENGINEERING PLANS

With one hundred (100) days of the Court's approval of this Consent Judgment, the Defendant shall submit to the Ohio Environmental Protection Agency, Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087, Attention John Januska, an application for a Permit to Install ("PTI"), the appropriate fee, and detailed engineering plans for the modification which Defendant caused to be performed to the wastewater pollution treatment system at its Facility at 8800 Evarts Road, Cleveland, Ohio (hereinafter the "Facility") in 1985 and 1986. The detailed engineering plans shall include, inter alia, a description of the "lumella clarifier" installed at the Facility with its associated plumbing and a description of the Facility's present wastewater pollution treatment system. The application for a PTI along with the detailed engineering plans are subject to the approval of the Ohio EPA.

If Ohio EPA disapproves a part or all of the application or detailed engineering plans, the Defendant shall resubmit to Ohio EPA at the address provided above, the disapproved portion

within 30 days of the receipt by the Defendant of any comments by the Ohio EPA so as to address any comments raised by the Ohio EPA.

V. EFFECT OF CONSENT JUDGMENT ON OTHER ACTIONS

This Consent Judgment shall not be construed so as to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law other than those alleged in the Complaint, regardless of when the violation occurred, nor shall it be construed to preclude the State of Ohio or its agencies from seeking monetary, injunctive, or other relief against Defendant for any violation of any state or federal law, which violation occurs subsequent to December 1, 1987. Nothing herein shall be construed to limit the authority of the State of Ohio to undertake any action against any person, including the Defendant, in response to conditions which may present an imminent and substantial endangerment to the public health, welfare or the environment.

VI. PERSONS TO WHOM CONSENT JUDGMENT APPLICABLE

The provisions of this Consent Judgment shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees, assigns and successors in interest, and to any parent companies or subsidiaries of the Defendant, and all persons, firms or corporations having notice of the Consent Judgment and who are or will be, acting in

concert or privity with the Defendant in this action or their officers, directors, agents, servants, employees and successors and assigns. In the event that Defendant proposes to sell or transfer its real property or operations subject to this Consent Judgment, prior to such sale or transfer it shall advise such purchaser or transferee of the existence of this Consent Judgment, and shall notify all parties to this Consent Judgment of such proposed sale or transfer within ten days.

VII. DEFENDANT'S POTENTIAL DEFENSES

In any action to enforce any of the provisions of the Consent Judgment, Defendant may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, act of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While Plaintiff does not agree that such a defense exists, it is, however, agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Judgment without a force majeure clause does not constitute a waiver by Defendant of any rights of defenses it may have under applicable law.

VIII. COURT COSTS

Defendant shall pay court costs.

JUDGE, Court of Common Pleas

ANTHONY J. CELEBREZZE, JR.
ATTORNEY GENERAL OF OHIO

EMPIRE PLATING COMPANY, INC.

By: 

PAUL D. HANCOCK
PAULA T. COTTER
Assistant Attorneys General
Environmental Enforcement
Section

30 East Broad St., 17th Fl. CALFEE, HALTER & GRISWOLD
Columbus, Ohio 43266-0410

By: 

STEPHEN P. PALISON, JR.
President

Approved by:

By: 

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Co., Inc.

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