

IN THE
COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO

State Of Ohio, ex rel.
Lee Fisher
Attorney General Of Ohio

Plaintiff,

v.

Information Display Technology
Inc., dba Greensteel Division, et al.

Defendants.

Case No.

92 CV 3073

Judge

CONSENT ORDER

Plaintiff, State of Ohio, by its Attorney General, Lee Fisher (hereinafter "Plaintiff"), having filed the Complaint against Defendants Information Display Technology, Inc., dba Greensteel Division and Adience, Inc., (hereinafter "Defendants") alleging violations of Chapter 3734 of the Ohio Revised Code ("RC"), and the parties having consented to the entry of this Order,

Now Therefore, without the trial of any issue of fact or law, and upon the consent of the parties hereto, without Defendants admitting any fact or allegation, it is hereby **Ordered, Adjudged and Decreed** as follows:

I. Jurisdiction

1. The Court has jurisdiction over the parties and subject matter of this action, pursuant to RC Chapter 3734 of the and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

II. Parties

2. The provisions of this Consent Order shall apply and be binding upon the parties to this action, their agents, officers, employees, assigns, successors in interest and any person acting in concert, privity or participation with them. Defendants are ordered to provide a copy of this Consent Order to each contractor they employ to perform the work itemized herein.

3. Defendants are ordered to require each general contractor and/or consultant to provide a copy of this Consent Order to each of its subcontractors and/or subconsultants for such work.

4. The duties and obligations under this Consent Order shall not be modified, diminished, terminated or otherwise altered by the transfer of any legal or equitable interest in the facility located at 14536 Oyster Road, Alliance, Ohio ("Greensteel Division's Alliance facility") or

any part. Should Defendants intend to transfer any legal or equitable interest in the Greensteel Division's Alliance facility, or any part thereof, Defendants shall serve a copy of this Consent Order upon the prospective transferee of the legal or equitable interest at least fourteen (14) days prior to the contemplated transfer and shall simultaneously notify the Ohio EPA at the addresses listed in paragraph 13.

III. Satisfaction Of Lawsuit

5. Plaintiff has alleged in its Complaint that Defendants have engaged in manufacturing porcelain enamel coated products at Greensteel Division's Alliance facility in violation of various provisions of the hazardous waste laws of Ohio, as set forth in RC Chapter 3734 and the rules adopted thereunder. Except as provided herein, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for those claims which have been alleged in the Complaint, this Consent Order, or any claim, letter or demand by Ohio EPA or the Ohio Attorney General including any condition or incident as set forth in the notice of violation letters dated February 13, 1992 through October 6, 1993 with regard to the two enamel solids units identified in Defendants' closure plan, originally submitted to Ohio EPA on February 14, 1992 (enamel solids units"); and IDT's, Greensteel Division's or Adience's storage, management and/or disposal of enamel solids at any time prior to the effective date of this Consent Order.

6. Nothing in this Consent Order, including the imposition of stipulated penalties, shall limit the authority of Plaintiff to seek relief for claims, condition or violations not alleged in the Complaint, or to seek any relief for claims, conditions or violations alleged in the Complaint which occur after the entry of this Consent Order. In addition, the Plaintiff hereby specifically reserves the right to take action against any person, including the Defendants pursuant to the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. §9601, et seq. and/or Ohio Revised Code Sections 3734.20 through 3734.27 for any removal, remedial or corrective actions which are not conducted pursuant to the terms of this Consent Order. The Plaintiff may also, if appropriate, enforce this Consent Order through a contempt action or otherwise for future violations of law which also comprise violations of this Consent Order.

IV. Closure Plan

7. Defendants are enjoined and ordered to perform a hazardous waste closure of the hazardous waste management units located at the Greensteel Division's Alliance facility identified in the closure plan submitted to the Ohio Environmental Protection Agency on or about February 4, 1993. Such closure shall be performed and completed in accordance with the closure regulations set forth in Ohio Administrative Code ("O.A.C.") Rules 3745-66-10 through 3745-66-

20 and shall be in accordance with a closure plan and schedule submitted by the Defendants as finally approved by Ohio EPA.

8. Within forty-five (45) days of receipt of written notice of deficiencies from Ohio EPA, Defendants are enjoined and ordered to re-submit an approvable closure plan(s) to Ohio EPA which addresses the deficiencies noted in said notice letter. The approved closure plan shall include groundwater monitoring in accordance with OAC Rules 3745-65-90 through 3745-65-94. If the Director of Ohio EPA does not approve part or all of the closure plan(s) submitted by the Defendants and provides Defendants with a written notice of deficiency, Defendants are enjoined and ordered to revise the plan(s) or submit a new plan(s) for approval that address the deficiencies within forty-five (45) days of receipt of such deficiencies. Upon receipt and review of the revised or new plan(s), the Director may approve the revised or new plan(s) or modify the plan(s) so that it complies with the rules. If the Director modifies the closure plan(s), the modified plan shall become the approved closure plan.

9. Defendants are enjoined and ordered to implement the approved closure plan(s) in accordance with the schedules contained therein and O.A.C. Rule 3745-66-13.

10. Defendants have, pursuant to OAC Rule 3745-66-42, developed and prepared a detailed written estimate, in current dollars, of the cost of closing the enamel solids units at the Greensteel Division's Alliance facility.

11. Defendants have submitted to Ohio EPA letters of Rod L. McDonald and Price Waterhouse, dated May 4, 1993 which, pursuant to O.A.C. Rules 3745-66-47, and 66-43 demonstrate financial responsibility for potential bodily injury and property damage to third parties caused by sudden and accidental occurrences arising from operations at the facility, and financial assurance for facility closure. Defendants are enjoined and ordered to maintain compliance with said Rules until the Director of Ohio EPA notifies Defendants that financial assurance is no longer required, pursuant to O.A.C. 3745-66-43(H).

12. Pursuant to O.A.C. Rule 3745-66-15, within sixty (60) days of completion of closure, Defendants are enjoined and ordered to submit certification that the facility has been closed in accordance with the approved closure plan(s) to Ohio EPA.

13. If within the schedule provided for closure in the Ohio EPA approved closure plan, Defendants cannot complete closure of the facility's enamel solids units(s) in accordance with the closure plan, and Ohio EPA determines clean closure cannot be achieved, Defendants are enjoined and ordered to, upon receipt of notification from Ohio EPA, conduct post closure care in accordance with OAC Rules 3745-66-17 through 66-20.

14. In the event that Ohio EPA notifies Defendants to conduct post closure care,

Defendants are enjoined and ordered to have a detailed written cost estimate for post closure care in accordance with OAC Rule 3745-66-44. Defendants are enjoined and ordered to submit to Ohio EPA documentation of compliance with said rule within forty-five (45) days from receipt of notification that post closure care is required.

V. Submittal Of Documents

15. Documentation of compliance with the requirements of this Consent Order shall be submitted to: "Manager, Compliance Monitoring and Enforcement Section, Division of Hazardous Waste Management, Ohio EPA, 1800 WaterMark Drive, Columbus, Ohio 43266-0149" and to "RCRA Group Leader, Ohio EPA Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087".

VI. Civil Penalty

16. Defendant IDT shall pay to the State of Ohio the amount of One Hundred Seventy-Five Thousand Dollars (\$175,000.00). Defendant Adience shall pay to the State of Ohio the amount of Twenty-Five Thousand Dollars (\$25,000.00). These amounts shall be paid by delivering a check(s) for these amount(s), payable to the order of "Treasurer, State of Ohio" on or before December 15, 1993 to Gertrude M. Kelly counsel for State, the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. These checks shall be deposited in the RCRA hazardous waste cleanup fund created in ORC Section 3734.28.

VII. General Injunction

17. Defendants agree and are hereby permanently enjoined to conduct any future operations at the Greensteel Division's Alliance facility in compliance with Chapter 3734 of the Ohio Revised Code and the rules promulgated thereunder, including but not limited to all hazardous waste generator requirements set forth at O.A.C. Chapter 3745-52.

18. Until the Director of Ohio EPA notifies Defendants that financial assurance is no longer required pursuant to O.A.C. Rule 3745-66-43(H), Defendants are enjoined and ordered to comply with the security requirements set forth in O.A.C. Rule 3745-65-14.

VIII. Compliance With Applicable Laws

19. Nothing herein shall affect Defendants' obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances.

IX. Stipulated Penalties

20. In the event that Defendants violate any of the requirements of paragraph's eight (8) through fourteen (14), including any milestone requirement in the closure plan schedule, Defendants shall immediately and automatically be jointly and severally liable for and shall pay a

stipulated penalty according to the following payment schedule. For each day of each failure to meet a requirement, up to thirty (30) days -- Five Hundred Dollars (\$500.00) per day per violation. For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days -- Seven Hundred and Fifty Dollars (\$750.00) per day per violation. For each day of each failure to meet a requirement, over sixty-one (61) days -- One Thousand Dollars (\$1,000.00) per day per violation.

21. Any payment required to be made under the provisions of this Section of this Order shall be payable monthly and made by delivering to Plaintiff's counsel, or his successor, a check or checks for the appropriate amounts payable to "Treasurer, State of Ohio" within forty-five (45) days from the last day of applicable month to Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43266-0410. These amounts shall be deposited in the Hazardous Waste Cleanup Fund created in RC 3734.28.

X. Termination Of Stipulated Penalties

22. The provisions of this Consent Order set forth in Article IX Paragraph 20, shall be terminated upon a demonstration by the Defendants that compliance with all the terms and conditions of this Consent Order and payment of the civil penalty, enforcement costs, and any stipulated penalty due and owing as required by this Consent Order have been met.

23. Defendants may not seek termination of the stipulated penalty section of this Consent Order for at least eighteen (18) months from the date it certifies closure of the Greensteel Division's Alliance facility, in accordance with OAC Rule 3745-66-14. Should Defendants fail to perform clean closure in accordance with the approved closure plan, the stipulated penalty provisions paragraph will automatically continue for an additional eighteen (18) months, i.e., at total of thirty-six (36) months.

24. Termination of the stipulated penalty section of this Consent Order shall become effective upon a demonstration to the State's satisfaction that the conditions outlined above have been met.

XI. Potential Force Majeure

25. In any action to enforce any of the provisions of this Consent Order, Defendants 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, acts of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or orders of any regulatory agency. While the State does not agree that such a defense exists, it is however, hereby agreed upon the parties that it is premature at this time to raise and adjudicate the extent of such a defense, and 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 Order without a

force majeure clause does not constitute a waiver by Defendants of any rights or defenses it may have under applicable law.

XII. Inspections

26. Defendants are ordered to allow representatives of the Ohio EPA, upon proper identification, to enter upon the facility at reasonable times, to inspect, investigate, take samples and pictures and examine or copy records in order to determine compliance with the terms of this Consent Order and RC Chapter 3734 and the rules promulgated thereunder. Nothing in this Order shall limit any right of entry possessed by the Plaintiff.

XIII. Retention Of Jurisdiction

27. This Court will retain jurisdiction of this action for the purpose of enforcing the terms and provisions of this Consent Order.

XIV. Court Costs

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

XV. Enforcement Costs

29. Defendants are ordered to pay the costs of relator Ohio Attorney General expended in pursuing the instant action, totalling Five Thousand Dollars (\$5,000.00) by delivering a check in such amount for payment into the Ohio Attorney General's Special Reimbursement Fund, No. 612, Program No. 5718, payable to the order of "Treasurer, State of Ohio" to Plaintiff's counsel, or his successor, Environmental Enforcement Section, 25th Floor 30 East Broad Street, Columbus, Ohio 43266-0410, within thirty (30) days after the entry of this consent Order. Any check submitted in compliance with this Section shall be in addition to and separate from any check submitted pursuant to any other Section of this Consent Order.

Entered this 28th day of December, 1993.

Approved:

MAHONING COUNTY
COURT OF COMMON PLEAS

J. R. Scott Krichbaum
Judge

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Dec 29 1993
This is a true copy of the original Consent
Order in case No. 93CV-3073
[Signature]

LEE FISHER
ATTORNEY GENERAL OF GENERAL



Gertrude M. Kelly (0039768)
Retanio Aj Rucker (0039764)
Assistant Attorneys General

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

Attorney for the State of Ohio

REED, SMITH, SHAW & McCLAY

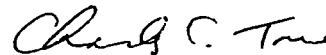


Roberta R. Wilson (0022570)
435 Sixth Avenue
Pittsburgh, PA 15219-1886
(412) 288-4138

Attorney for Defendants



Authorized Representative
Defendant Industrial Display Technology,
Greensteel Charles C. Torie - Vice President



Authorized Representative
Defendant Adience, Inc.
Charles C. Torie - Vice President