

IN THE COURT OF COMMON PLEAS
HIGHLAND COUNTY, OHIO

STATE OF OHIO, ex rel.)
BETTY D. MONTGOMERY,)
ATTORNEY GENERAL OF OHIO)
30 East Broad Street)
Columbus, Ohio 43215-3428)

Plaintiff,)

v.)

JOHNSON CONTROLS, INC.)
49200 Halyard Drive)
Plymouth, Michigan 48170)

Defendant.)

CASE NO. 96 CV 118
JUDGE McMullen

CONSENT ORDER

FILED
COMMON PLEAS COURT
HIGHLAND COUNTY, OHIO

JUL 15 1996

Pauline Donley
HIGHLAND COUNTY CLERK OF COURTS

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio, by and through its Attorney General Betty D. Montgomery ("Plaintiff"), and Defendant Johnson Controls, Inc. ("Johnson Controls") having consented to the entry of this Order,

NOW THEREFORE, without trial of any issue of fact or law, without admission by Johnson Controls of any violation, fact or liability, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

J. 115
P. 585

I. DEFINITIONS

1. As used in this Consent Order, the following terms are defined as follows:
 - a. "Ohio EPA" means the Ohio Environmental Protection Agency.
 - b. "Permit to Install" ("PTI") has the same meaning as set forth in Ohio Administrative Code ("O.A.C.") Chapter 3745-31.
 - c. "Permit to Operate" ("PTO") has the same meaning as set forth in O.A.C. Chapter 3745-35.
 - d. "Facility" means Johnson Controls' manufacturing plant located at 1117 North Washington Street, Greenfield, Highland County, Ohio.

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case.

The Complaint states claims upon which relief can be granted against Johnson Controls pursuant to Chapter 3704 of the Ohio Revised Code ("O.R.C."). Venue is proper in this Court.

III. PARTIES

3. The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their agents, officers, employees, assigns, successors, and, pursuant to Rule 65(D) of the Ohio Rules of Civil Procedure, any person acting in concert or participation with any of them who receives actual notice of the Consent Order whether by personal service or otherwise.

IV. SATISFACTION OF LAWSUIT

4. Plaintiff alleges in its Complaint that Johnson Controls has committed violations of O.R.C. Chapter 3704 and the regulations promulgated thereunder. Compliance

with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Johnson Controls for the violations alleged in the Complaint.

5. Nothing in this Order shall be construed to limit the authority of the State of Ohio to seek relief for violations not alleged in the Complaint, including violations that occur after the date of entry of this Consent Order. Such relief may include, but is not limited to, any appropriate administrative, civil, and/or criminal enforcement action that seeks injunctive, monetary, and other relief against Johnson Controls.

6. Nothing in this Consent Order shall be construed to relieve Johnson Controls of its rights and obligations to comply with applicable federal, state, or local statutes, regulations, or ordinances.

V. PERMANENT INJUNCTION

7. Johnson Controls agrees to refrain and is hereby immediately and permanently enjoined from "installing" or "modifying" any "air contaminant source", as those terms are defined in O.A.C. Rule 3745-31-01(I), (J), and (D), respectively, at its Facility without first obtaining a PTI from the Director of Ohio EPA in accordance with O.A.C. Rule 3745-31-02(A).

8. Except as authorized under O.R.C. § 3704.03(F), Johnson Controls agrees to refrain and is hereby immediately and permanently enjoined from operating any "air contaminant source," as that term is defined in O.A.C. Rule 3745-35-01(B)(1), at its Facility without first applying for and obtaining a PTO from Ohio EPA in accordance with O.A.C. Rule 3745-35-02(A).

9. Johnson Controls agrees and is hereby immediately and permanently enjoined and ordered to comply with all terms and conditions and emission limits of all permits issued to Johnson Controls pursuant to O.R.C. Chapter 3704.

VI. CIVIL PENALTY

10. Pursuant to O.R.C. § 3704.06, Johnson Controls is assessed a civil penalty of Three Hundred Twenty-Five Thousand (\$325,000). This civil penalty shall be paid in three installments. The first payment of Twenty-five Thousand dollars (\$25,000) shall be paid no later than thirty (30) days after entry of this Consent Order. The second payment of (\$150,000), shall be paid October 1, 1996. The third payment of (\$150,000), shall be paid by December 2, 1996. All payments shall be paid by delivering a certified check in that amount, payable to the order of "Treasurer, State of Ohio", to Matthew Sanders, Administrative Assistant, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

VII. STIPULATED PENALTIES

11. In the event that Johnson Controls fails to meet the payment deadlines set forth in paragraphs 10 and/or 18 of this Consent Order, Johnson Controls is liable for and shall immediately pay stipulated penalties in accordance with the following schedules for such failure:

- a. For each day of each failure to meet a payment deadline, up to thirty (30) days -- Five Hundred Dollars (\$500) per day.
- b. For each day of each failure to meet a payment deadline, from thirty-one (31) to sixty (60) days -- One Thousand Five Hundred Dollars (\$1,500) per day.
- c. For each day of each failure to meet a payment deadline, over sixty (60) days -- Three Thousand Dollars (\$3,000) per day.

12. In the event Johnson Controls violates the injunctions set forth in paragraphs 7 and 8 of this Consent Order, Johnson Controls shall be liable for and shall immediately pay stipulated penalties in accordance with the following schedule:

- a. For each air contaminant source installed or modified without first obtaining a PTI, Johnson Controls shall pay a stipulated penalty of Five Thousand Dollars (\$5,000.00).
- b. For each air contaminant source operated without a Permit to Operate in violation of O.R.C. Chapter 3704 and O.A.C. Chapter 3745-35, Johnson Controls shall pay a stipulated penalty in accordance with the following schedule:
 1. For each day of operation without a permit, up to thirty (30) days -- Five Hundred Dollars (\$500) per day.
 2. For each day of operation without a permit, from thirty-one (31) to sixty (60) days -- One Thousand Dollars (\$1,000) per day.
 3. For each day of operation without a permit, over sixty (60) days -- One Thousand Five Hundred Dollars (\$1,500) per day.

Such penalties shall be paid by delivering a certified check in the appropriate amount, payable to the order of "Treasurer, State of Ohio", to the Administrative Assistant, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

VIII. MODIFICATION OF CONSENT ORDER

13. This Consent Order shall not be modified except by written agreement among the parties and upon acceptance of this modification by the Court.

IX. POTENTIAL FORCE MAJEURE

14. If any event occurs which causes or may cause a delay of any requirement of this Consent Order, Johnson Controls shall notify the Ohio EPA in writing within ten (10) days after it becomes aware of the event, describing in detail the anticipated length of the

delay, the precise cause or causes of the delay, the measures taken and to be taken by Johnson Controls to prevent or minimize the delay and the timetable by which measures will be implemented. Johnson Controls will adopt all reasonable measures to avoid or minimize any such delays. An extension of one compliance date based on a particular incident does not mean that Johnson Controls qualifies for an extension of a subsequent compliance date or dates. Failure by Johnson Controls to comply with the notice requirements of this Section shall render this Section void and of no force and effect as to the particular incident involved and shall constitute a waiver of Johnson Controls' right to request an extension of its obligations under this Consent Order based on such incident. Johnson Controls must make an individual showing of proof regarding each incremental step or other requirement for which an extension is sought.

15. In any action by the Plaintiff to enforce any of the provisions of the Consent Order, Johnson Controls may present facts and arguments that it is entitled to a defense that its conduct was caused by reasons entirely beyond its control such as, by way of example and not limitation, acts of God, strikes, acts of war or civil disturbances. While the Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by Johnson Controls and the Plaintiff 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 by the Plaintiff. At that time, Johnson Controls will bear the burden of proving that any delay was or will be caused by circumstances entirely beyond the control of Johnson Controls. Unanticipated or increased costs associated with the implementation of any action required by this consent order, or changed financial circumstances, shall not constitute circumstances entirely beyond the control

of Johnson Controls or serve as a basis for an extension of time under this Consent Order. Acceptance of this Consent Order without a Force Majeure Clause does not constitute a waiver by Johnson Controls of any rights or defenses it may have under applicable law.

X. RETENTION OF JURISDICTION

16. The Court will retain jurisdiction of this action for the purpose of enforcing this Order, and for resolving disputes arising under this Order that are within the Court's jurisdiction, until Termination.

XI. TERMINATION

17. In the event that Johnson Controls complies with the requirements and injunctions set forth in this Consent Order for a period of one year from the date of entry of this Order, this Consent Order may be terminated by the Court. Termination shall be made only upon (1) application by either party and (2) demonstration (or agreement by both parties) that the requirements of this Consent Order have been satisfied.

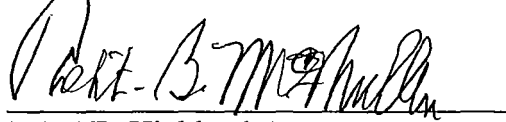
XII. ATTORNEY GENERAL'S ENFORCEMENT COSTS

18. Johnson Controls hereby agrees and is enjoined to pay to the Ohio Attorney General's Office a sum of Three Thousand Five Hundred Dollars (\$3,500) to reimburse the Attorney General for her expenses incurred and time expended in this matter. Such costs shall be paid by delivering a certified check in that amount, payable to the order of "Treasurer, State of Ohio", to the Administrative Assistant, Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio. 43215-3428. Such costs shall be paid by no later than thirty (30) days after entry of this Order.

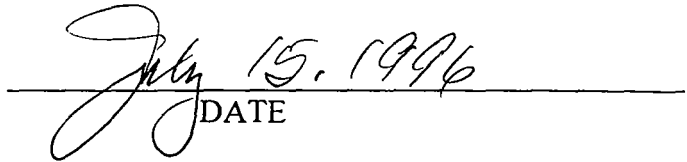
XIII. COSTS

19. Johnson Controls is hereby ordered to pay any court costs of this action.

IT IS SO ORDERED.



JUDGE, Highland County
Court of Common Pleas


DATE

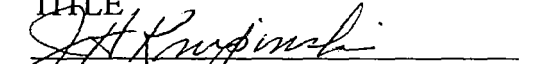
APPROVED BY:


JOHNSON CONTROLS, INC.

BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

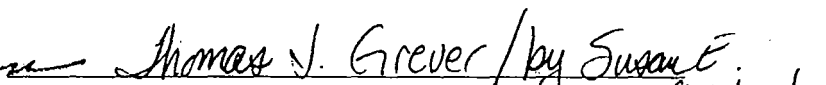

Jim Krupinski
NAME

General Manager Foam Business Unit
TITLE


AUTHORIZED REPRESENTATIVE
JOHNSON CONTROLS, INC.


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