



IN THE COURT OF COMMON PLEAS FOR
HAMILTON COUNTY, OHIO



D96545422

STATE OF OHIO, *ex rel.*
MICHAEL DEWINE
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

QUEEN CITY BARREL COMPANY, *et al.*,

Defendants.

Case No. A 0907789

Judge John Andrew West

ENTERED
FEB 17 2012

CONSENT ORDER AND FINAL JUDGMENT ENTRY

The State of Ohio, *ex rel.* Michael DeWine, Ohio Attorney General (“Plaintiff”), having filed the Complaint in this action against Queen City Barrel Company, E. Paul Corporation and Edward Paul (“Defendants”) to enforce alleged violations of Ohio’s hazardous waste laws found in R.C. Chapter 3734 and rules adopted thereunder; and Defendants, having first consented to the entry of this Consent Order and Final Judgment Entry without trial or admission of any issue of fact or law, the Court hereby **ORDERS, ADJUDGES** and **DECREES** as follows:

I. DEFINITIONS

1. As used in this Consent Order:

A. “**Consent Order**” means this Consent Order and Final Judgment Entry.

B. “**Defendants**” mean Queen City Barrel Company, E. Paul Corporation and Edward Paul.

C. “**Effective Date**” means the date the Hamilton County Court of Common Pleas enters this Consent Order.

D. “**Plaintiff**” means the State of Ohio by and through its Attorney General.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3734 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.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon Plaintiff and Defendants, and Defendants' agents, officers, employees, assigns, successors-in-interest, and any person who would be bound pursuant to Civil Rule 65(D).

4. The obligations of Defendants to pay the agreed amounts and implement the requirements of this Consent Order are joint and several. In the event of insolvency, bankruptcy, or other failure of any Defendant to pay any required amount and/or implement any requirement, the remaining Defendants shall pay the amount and/or implement the requirement as required by this Consent Order.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

5. Except as otherwise provided in this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiff for all claims alleged in the Complaint.

6. Nothing in this Consent Order shall limit the authority of the State of Ohio to:

A. Seek relief for claims or conditions not alleged in the Complaint;

B. Seek relief for claims or conditions alleged in the Complaint that occur after the

Effective Date of this Consent Order; and

C. Enforce this Consent Order through a contempt action or otherwise for violations of this Consent Order.

7. Nothing in this Consent Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged in the Complaint against any person, firm, trust, joint venture, partnership, corporation, association, or other entity not a signatory to this Consent Order.

8. Nothing in this Consent Order shall be construed to relieve any Defendant of its obligations to comply with applicable federal, state, or local statutes, regulations, or ordinances.

9. Nothing herein shall restrict the right of the Defendants to raise any administrative, legal or equitable claim or defense with respect to such further actions reserved by the State in this Section. However, Defendants shall not assert and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting or other defenses based upon any contention that the claims raised by the State in the subsequent proceeding were, could, or should have been brought in the instant case.

V. INJUNCTIVE RELIEF

10. Starting from the effective date of this Consent Order, and lasting until all payment obligations hereunder are satisfied and this Consent Order terminated by order of the Court, the Defendants are ordered to comply with all applicable provisions of Ohio's hazardous waste laws and rules found in R.C. Chapter 3734 and Ohio Adm. Code and Rules Chapters 3745-50 through 3745-69.

VI. CIVIL PENALTY

11. Defendants are ordered jointly and severally to pay to the Plaintiff a civil penalty in the amount of ninety thousand dollars (\$90,000.00) in accordance with the following twenty-four (24) month schedule:

A. First payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before ninety (90) days after the Effective Date of this Consent Order; *May 17*

B. Second payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before one hundred eighty (180) days after the Effective Date of this Consent Order; *8, 15, 12*

C. Third payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before two hundred seventy (270) days after the Effective Date of this Consent Order; *11-13-12*

D. Fourth payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before three hundred sixty (360) days after the Effective Date of this Consent Order; *2-11-13*

E. Fifth payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before four hundred fifty (450) days after the Effective Date of this Consent Order; *5-12-13*

F. Sixth payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before five hundred forty (540) days after the Effective Date of this Consent Order; *8-10-13*

G. Seventh payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before six hundred thirty (630) days after the Effective Date of this Consent Order; and *11-8-13*

H. Eighth payment of eleven thousand, two hundred fifty dollars (\$11,250.00) due on or before seven hundred twenty (720) days after the Effective Date of this Consent Order. *2-6-14*

12. These civil penalty payments shall be made by delivering to Plaintiff, c/o Martha Sexton, or her successor at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, a cashier's or certified check, payable to the order of "Treasurer, State of Ohio." The memo portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 289444." For purposes of determining the due date for these payments, a "day"

means a calendar day, and any due date falling on a weekend or State holiday shall carry over to the following business day. Nothing herein precludes Defendants from making early payments under the agreed schedule.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

13. Defendants hereby agree, and therefore are jointly and severally ordered, to make the following additional payment of sixty thousand dollars (\$60,000.00) as a supplemental environmental project (SEP), in accordance with the following schedule, to fund the Household Hazardous Waste Drop-Off Program managed by the Hamilton County Recycling and Solid Waste District:

A. First payment of seven thousand, five hundred dollars (\$7,500.00) due on or before ninety (90) days after the Effective Date of this Consent Order;

B. Second payment of seven thousand, five hundred dollars (\$7,500.00) due on or before one hundred eighty (180) days after the Effective Date of this Consent Order;

C. Third payment of seven thousand, five hundred dollars (\$7,500.00) due on or before two hundred seventy (270) days after the Effective Date of this Consent Order;

D. Fourth payment of seven thousand, five hundred dollars (\$7,500.00) due on or before three hundred sixty (360) days after the Effective Date of this Consent Order;

E. Fifth payment of seven thousand, five hundred dollars (\$7,500.00) due on or before four hundred fifty (450) days after the Effective Date of this Consent Order;

F. Sixth payment of seven thousand, five hundred dollars (\$7,500.00) due on or before five hundred forty (540) days after the Effective Date of this Consent Order;

G. Seventh payment of seven thousand, five hundred dollars (\$7,500.00) due on or

before six hundred thirty (630) days after the Effective Date of this Consent Order; and

H. Eighth of seven thousand, five hundred dollars (\$7,500.00) due on or before seven hundred twenty (720) days after the Effective Date of this Consent Order.

14. Defendants' individual SEP payments shall be made by delivering to "Manager, Hamilton County Household Hazardous Waste Drop-Off Program," C/O Hamilton County Recycling and Solid Waste District, Division of Hamilton County Department of Environmental Services, 250 William Howard Taft Road, First, Floor, Cincinnati, OH-45219, a cashier's or certified check, payable to the "Hamilton County Recycling and Solid Waste District." The memo portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 289444," and shall state "For Deposit into Household Hazardous Waste Drop-Off Program Fund." A copy of each SEP payment shall be mailed to Plaintiff in accordance with the instructions provided in Paragraph 12 of this Consent Order. For purposes of determining the due date for these SEP payments, a "day" means a calendar day, and any due date falling on a weekend or holiday shall carry over to the following business day. Nothing herein precludes Defendants from making early payments under the agreed schedule.

15. If Defendants fail to make any individual SEP payment within the applicable deadline provided in Paragraph 12 A-H, that SEP payment and all remaining unpaid SEP payments shall be immediately due and payable as a civil penalty to Plaintiff in accordance with the instructions provided in Paragraph 12 of this Consent Order and shall be paid to Plaintiff within thirty (30) days of the missed deadline..

IX. RETENTION OF JURISDICTION

16. The Court shall retain jurisdiction of this action for the purpose of enforcing the requirements of this Consent Order.

X. COSTS

17. Defendants shall pay the court costs of this action.

XI. TERMINATION OF CONSENT ORDER

18. This Consent Order may be terminated only upon a motion filed under Civil Rule 60 after Defendants have completed all payment obligations required hereunder.


XII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

19. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal as a final judgment entry. Within three (3) 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 notes the service in the appearance docket.

XIII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

20. Edward Paul, as signatory for Queen City Barrel Company and E Paul Corporation, represents and warrants that he has been duly authorized to sign this document and so bind the two companies to all terms and conditions hereof.


SO ORDERED:


 COURT OF COMMON PLEAS
 ENTERED
 HON. JOHN ANDREW WEST
 THE CLERK SHALL SERVE NOTICE
 TO PARTIES ANDREW WEST
 JUDGE JAMES A. CARR
 RULE 58 WHICH SHALL BE TAXED
 AS COSTS HEREIN.

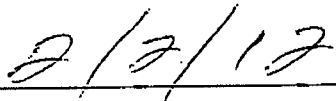
DATE

SO AGREED:

MICHAEL DEWINE,
OHIO ATTORNEY GENERAL



James A. Carr, Esq. (0022840)
 Assistant Attorney General
 Environmental Enforcement Section
 30 East Broad Street, 25th Floor
 Columbus, Ohio 43215-3400
 Telephone: (614) 466-2766
 Facsimile: (614) 644-1926
 Attorney for Plaintiff State of Ohio


 Date

QUEEN CITY BARREL COMPANY

Edward Paul, President

Print Name

Date

E. PAUL CORPORATION

Edward Paul, President

Print Name

Date

EDWARD PAUL

SO AGREED:

RICHARD CORDRAY,
OHIO ATTORNEY GENERAL

James A. Carr, Esq. (0022840)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Attorney for Plaintiff State of Ohio

Date

QUEEN CITY BARREL COMPANY

Edward Paul, PRESIDENT

Edward Paul, President

EDWARD PAUL

Print Name

12-20-11

Date

E. PAUL CORPORATION

Edward Paul, PRESIDENT

Edward Paul, President

EDWARD PAUL

Print Name

12-20-11

Date

EDWARD PAUL

Edward Paul

EDWARD PAUL

Print Name

12-20-11

Date

SO ORDERED:

JUDGE JOHN ANDREW WEST

DATE

Stephen N. Haughey
Print Name

February 13, 2012
Date

Stephen N. Haughey
Stephen N. Haughey (0010489)
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