

May 25 10 02 AM '94

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

EDP  
JMG

STATE OF OHIO, ex rel  
LEE FISHER  
ATTORNEY GENERAL OF OHIO

CASE NO. 249435  
JUDGE BURT W. GRIFFIN

Plaintiff,

vs .

RELIABLE METAL FINISHING, INC.  
(FORMERLY F & M PLATING CORP.)  
et al.,

CONSENT ORDER  
AS TO DEFENDANT  
RICHARD MONACO

Defendants.

Plaintiff, State of Ohio, by its Attorney General, Lee Fisher (hereinafter "Plaintiff"), having filed the Complaint against Defendants Reliable Metal Finishing, Inc. ("RMF") formerly F & M Plating Corp., and Richard Monaco and Pasquale Monaco aka Pat Monaco alleging violations of Chapter 3734 of the Ohio Revised Code, 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, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION

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

action, pursuant to Chapter 3734 of the Ohio Revised Code 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

A. 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. Defendant shall provide a copy of this Consent Order to each contractor employed to perform work itemized herein.

B. The terms and provisions of this Consent Order do not apply to Defendant Pasquale Monaco aka Pat Monaco.

## III. SATISFACTION OF LAWSUIT

A. Plaintiff has alleged in its Complaint that Defendant has engaged in plating operations at a facility located at 4145 East 79th Street, Cleveland, Ohio ("the Facility") in violation of various provisions of the hazardous waste laws of Ohio, as set forth in Chapter 3734 of the Ohio Revised Code and the rules adopted thereunder.

B. Noting in this Consent Order shall be construed to release Defendant Pasquale Monaco aka Pat Monaco or forgive said Defendant for the violations alleged in the Complaint.

C. Compliance with the terms of this Consent Order shall constitute full

satisfaction of any civil liability by Defendant Richard Monaco for those claims which have been alleged in the Complaint.

D. Nothing in this Consent Order, including the imposition of stipulated civil penalties, shall limit the authority of Plaintiff to seek relief for claims, conditions, 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.

E. The Plaintiff hereby specifically reserves the right to take action against any person, including but not limited to Defendant Richard Monaco 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**

Defendant Richard Monaco is enjoined and ordered to perform a hazardous waste closure of all hazardous waste management units located at the Facility. 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 Defendant Richard Monaco as finally approved by Ohio EPA.

Within thirty (30) days of entry of this Consent Order, Defendant Richard Monaco is enjoined and ordered to submit an approvable closure plan(s) to Ohio EPA which addresses the closure of the regulated hazardous waste units at the Facility in accordance with O.A.C. rules 3745-66-10 through 3745-66-20. If the Director of Ohio EPA does not approve part or all of the closure plan(s) submitted by the Defendant Richard Monaco and provides Defendant Richard Monaco with a written notice of deficiency, the Defendant Richard Monaco is enjoined and ordered to revise the plan(s) or submit a new plan(s) for approval that address the deficiencies within thirty (30) 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. Defendant Richard Monaco is 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.

Defendant Richard Monaco is enjoined and ordered, pursuant to O.A.C. Rule 3745-66-42, to develop and prepare a detailed written estimate, in current dollars, of the cost of closing all hazardous waste management units at the facility within thirty (30) days of entry of this Consent Order and maintain compliance with said rule until the Director of Ohio EPA notifies the Defendant Richard Monaco that financial assurance is no longer required, pursuant to O.A.C. Rule 3745-66-43(M).

Defendant Richard Monaco is enjoined and ordered to establish financial

assurance pursuant to O.A.C. Rule 3745-66-43, for the closure of all hazardous waste management units at the facility within thirty (30) days of entry of this Consent Order and maintain compliance with said rule until the Director of Ohio EPA notifies the Defendant Richard Monaco that financial assurance is no longer required, pursuant to O.A.C. Rule 3745-66-43(H).

Defendant Richard Monaco is enjoined and ordered to demonstrate, pursuant to O.A.C. Rule 3745-66-47, financial responsibility for potential bodily injury and property damage to third parties caused by sudden and accidental occurrences arising from operations at the facility within thirty (30) days of entry of this Consent Order and maintain compliance with said rule until the Director of Ohio EPA notifies the Defendant Richard Monaco that financial assurance is no longer required, pursuant to O.A.C. 3745-66-43(H).

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

#### **V. SUBMITTAL OF DOCUMENTS**

Documentation of compliance with the requirements of Sections IV and VI of this Consent Order shall be submitted, within forty-five (45) days of entry of this Consent Order, 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. GENERAL INJUNCTION**

Defendant Richard Monaco agrees and is hereby permanently enjoined to conduct any future operations at the Facility located at 4145 East 79th Street, Cleveland, Ohio in compliance with Chapter 3734 of the Ohio Revised Code and the rules promulgated thereunder. Specifically, Defendant Richard Monaco agrees and is enjoined to achieve and maintain compliance with all generator requirements set forth at O.A.C. Chapter 3745-52.

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

Defendant Richard Monaco agrees to refrain and are hereby permanently enjoined from treating, storing, and/or disposing of hazardous wastes at the Facility unless and until such time as Defendant Richard Monaco applies and qualify for and receive a hazardous waste facility installation and operation permit to conduct such activities in accordance with Ohio Revised Code Section 3734.05.

Within thirty (30) days of entry of this Consent Order, Defendant Richard Monaco is enjoined and ordered to comply with the following requirements:

1. Submit documentation to Ohio EPA demonstrating compliance with and implementation of hazardous waste generator waste evaluation requirements at the facility pursuant to O.A.C. Rule 3745-52-11;

2. Prepare and submit generator and facility annual reports for the years 1986 through 1991 which meet the requirements of O.A.C. Rules 3745-54-75 and 3745-65-75.

#### VII. COMPLIANCE WITH APPLICABLE LAWS

Nothing herein shall affect Defendant Richard Monaco's obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances.

#### VIII. STIPULATED PENALTIES

In the event that Defendant Richard Monaco violate any of the requirements of this Consent Order, including any milestone requirement in the closure plan schedule, Defendant Richard Monaco 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 - One Thousand Dollars (\$1,000.00) per day. For each day of each failure to meet a requirement, from thirty-one (31) to sixty (60) days Two Thousand Dollars (\$2,000.00) per day. For each day of each failure to meet a requirement, from sixty-one (61) days to ninety (90) day Three Thousand Five Hundred Dollars (\$3,500.00) per day. For each day of failure to meet a requirement, over ninety (90) days - Five Thousand Dollars (\$5,000.00) per day.

Any payment required to be made under the provisions of this Section of this Order shall be made by delivering a certified check or checks for the appropriate amounts payable to "Treasurer, State of Ohio" within forty-five (45) days from the date of the failure to meet the requirement of the Consent Order to Matthew A.

Sanders, Acting Administrative Assistant, or a person subsequently designated by the State, at the office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

**IX. INSPECTIONS**

Defendant is 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 O.R.C. Chapter 3734 and rules promulgated thereunder. Nothing in this Order shall limit any right of entry possessed by the Plaintiff.

**X. RETENTION OF JURISDICTION**

This Court will retain jurisdiction of this action for the purpose of making any order or decree appropriate to carry out this Consent Order.

**XI. COURT COSTS**

Defendant Richard Monaco is ordered and enjoined to pay one half (1/2) the



court costs of this action.

4-30-94  
DATE

Burt W. Griffin  
JUDGE BURT W. GRIFFIN  
CUYAHOGA COUNTY COMMON PLEAS COURT

APPROVED:

LEE FISHER  
ATTORNEY GENERAL OF OHIO

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BY Gerald A. Fuery CLERK DEP.

RELIABLE METAL FINISHING (FORMERLY F & M PLATING CORP.)

By:

Richard Monaco  
RICHARD MONACO

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