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LUCAS COUNTY COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

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

CASE NO. _____
ASSIGNED TO JUDGE JENSEN
JUDGE _____

Plaintiff,

v.

RIETER AUTOMOTIVE GLOBE, INC.
2638 East 126th Street
Chicago, Illinois 60633

Defendant.

CONSENT ORDER

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, and Defendant Rieter Automotive Globe, Inc. ("Rieter") having consented to the entry of this Order,

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

1. DEFINITIONS

1. As used in this Consent Order, the following terms are defined as follows:

- a. "Ohio EPA" means the Ohio Environmental Protection Agency and its agents, including the Toledo Division of Environmental Services.

- b. "Permit to Install" ("PTI") has the same meaning as set forth in Ohio Administrative Code ("OAC") Chapter 3745-31.
- c. "Permit to Operate" ("PTO") has the same meaning as set forth in OAC Chapter 3745-35.
- d. "Facility" means Rieter's manufacturing plant located at 645 Lallendorf Road, Oregon, Lucas 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 Rieter pursuant to Chapter 3704 of the Ohio Revised Code ("ORC"). 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, directors, 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 his Complaint that Defendant Rieter has committed violations of the requirements of ORC Chapter 3704 and the regulations promulgated thereunder. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Rieter for all violations alleged in the Complaint.

5. Except where expressly limited in paragraph 12, below, 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 Defendant Rieter.

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

V. COMPLIANCE TESTING

7. Defendant Rieter agrees and is hereby enjoined to perform compliance testing on the venturi/packed bed scrubbers used to control air emissions from its air contaminant sources, beginning on January 15, 1996, and continuing until no later than January 22, 1996, and the results of such compliance testing shall be made available to Ohio EPA by February 22, 1996. Further, by January 22, 1996, Defendant Rieter shall perform, in a manner acceptable to Ohio EPA, compliance testing on the thermal oxidizer used to control air emissions from:

- a. those air contaminant sources identified in the Permit to Install ("PTI") issued by the Director on May 10, 1995 (Application No. 04-905), and/or;
- b. those air contaminant sources described in subparagraphs a. through i. of paragraph 12 of this Consent Order.

Additionally, by January 22, 1996, Rieter shall perform testing, in a manner acceptable to Ohio EPA, to determine the amount of fugitive air contaminants

escaping the building. Within 30 days after the completion of the testing required by this paragraph, Rieter shall provide Ohio EPA with the results of such testing.

VI. PERMANENT INJUNCTION

8. Except as specifically provided in paragraph 12, below, Rieter agrees and is hereby immediately and permanently enjoined and ordered to comply with all applicable requirements of ORC Chapter 3704 and the rules adopted thereunder.

9. Rieter agrees to refrain and is hereby immediately and permanently enjoined from "installing" or "modifying" any "air contaminant source", as those terms are defined in OAC Rule 3745-31-01(I), (J), and (D), respectively, at its Facility without first applying for and obtaining a PTI from the Director of Ohio EPA in accordance with OAC Rule 3745-31-02(A); provided, however, that this injunction shall not apply to any air contaminant source that is exempt from the requirement to obtain a PTI.

10. Additionally, except as authorized under ORC § 3704.03(F) and subparagraph e. of paragraph 12 of this Order, Rieter agrees to refrain and is hereby immediately and permanently enjoined from operating any "air contaminant source," as that term is defined in OAC Rule 3745-35-01(B)(1), at its Facility without first applying for and obtaining a Permit to Operate ("PTO") from Ohio EPA in accordance with OAC Rule 3745-35-02(A); provided, however, that this injunction shall not apply to any air contaminant source that is exempt from the requirement to obtain a PTO.

11. Additionally, Rieter agrees to refrain and is hereby immediately and permanently enjoined from permitting or allowing the emission or escape into the

open air of fumes, gases, vapors, odors, or any other substances in such a manner or in such amounts as to endanger the health, safety, or welfare of the public, or cause unreasonable injury or damage to property, in violation of OAC Rule 3745-15-07.

12. Further, Rieter agrees and is hereby immediately and permanently enjoined and ordered to comply with all terms and conditions of all current and future PTIs and PTOs issued to Rieter, including the PTI issued by the Director on May 10, 1995 to Globe Industries, Inc.; provided, however, that the parties recognize that Rieter has made certain changes at the facility which render certain provisions of the May 10, 1995 PTI moot and/or potentially subject to change. These permit provisions, and the parties' intent and obligations with respect to such provisions, are as follows:

- a. For Sources P009, P010, P013, P014, P015, and P016, the BAT determination in the PTI should reflect that the tool exhaust is being vented to a recuperative thermal oxidizer and that the hood exhaust is being vented to a venturi/packed bed scrubber.
- b. The May 10, 1995 PTI reflects the presence of Sources P011 and P012. However, these sources have been taken out of production and are no longer active.
- c. Sources P013, P014, P015, and P016 have been converted from "SA" presses to "Hett" presses. Pursuant to a PTI application submitted to Ohio EPA in October of 1995, Rieter has indicated that the emission limits for these four converted sources should, in most cases, be lower than the emission limits set forth in the May 10, 1995 PTI. Consequently, in lieu of the emission limits for these four sources set forth in the May 10, 1995 PTI, Rieter agrees and is ordered to comply with the following emission limits:

0.088 lb/hr and 0.386 tons/year PM;

0.681 lb/hr and 2.982 tons/yr OC;
0.006 lb/hr and 0.027 tons/year phenol;
0.002 lb/hr and 0.009 tons/year
formaldehyde;
0.049 lb/hr and 0.216 tons/year of ammonia.

- d. Source P018, which is designated as Conventional Press No. 1 in the May 10, 1995 PTI, should be designated as Conventional Press No. 5. Similarly, Source P019, which is designated as Conventional Press No. 2, should be designated as Conventional Press No. 6.
- e. In June of 1995, Rieter applied for a PTI for two additional sources at the facility, i.e., Sources P020 and P021. Pending Ohio EPA's action on the PTI application for these sources, Rieter may operate such sources as long as Rieter complies with the following emission limits for such sources:

P020 emission limits:

1.3 lb/hr and 5.9 ton/yr PM;
1.2 lb/hr and 5.4 ton/yr OC;
0.5 lb/hr and 2.4 ton/yr phenol;
0.05 lb/hr and 0.2 ton/yr
formaldehyde;
0.4 lb/hr and 1.9 ton/yr
ammonia.

P021 emission limits:

1.5 lb/hr and 6.4 ton/yr PM;
1.3 lb/hr and 5.8 ton/yr OC;
0.6 lb/hr and 2.6 ton/yr phenol;
0.05 lb/hr and 0.2 ton/yr
formaldehyde;
0.5 lb/hr and 2.1 ton/yr
ammonia.

Reiter agrees to and is enjoined, pending Ohio EPA's action on Rieter's June, 1995 PTI application to comply with such limits.

- f. Given the changes to the facility described in subparagraphs a. through e., above, and pending Ohio EPA's actions on the June, 1995 and October,

1995 PTI applications, the Summary of Total Allowable Emissions set forth on page 7 of the May 10, 1995 PTI is modified as follows:

<u>Pollutant</u>	<u>tons/year</u>
particulate matter	24.8
organic compounds	42.5
phenol	7.6
formaldehyde	0.7
ammonia	8.2

Pending Ohio EPA's action on the PTI applications submitted by Rieter since May 10, 1995, Rieter agrees to and is enjoined to comply with these yearly allowable emissions limits.

- g. In the May 10, 1995 PTI, Additional Special Term and Condition No. 1 A. requires Rieter to install two thermal oxidizers. However, Rieter has installed only one thermal oxidizer asserting that the conversion of Sources P013, P014, P015, and P016 to a Hett-type process has eliminated the need for two thermal oxidizers. Pending the completion of compliance testing pursuant to paragraph 7, Ohio EPA will not enforce the requirement that Rieter utilize two thermal oxidizers. In the event that compliance testing fails to demonstrate compliance with relevant emission limits, Ohio EPA reserves the right to enforce the PTI requirement that two thermal oxidizers be installed.
- h. Pending Ohio EPA's actions on the PTI applications which have been submitted by Rieter since May 10, 1995, Ohio EPA shall not enforce the 95% control efficiency requirements, applicable to the thermal oxidizer, with respect to particulate matter.
- i. Pending Ohio EPA's actions on the PTIs which have been submitted since May 10, 1995, Additional Special Term and Condition 1 D. shall be considered to be modified, as follows:
 - 1). Sources P011 and P012 shall be deleted;

- 2). For Sources P013, P014, P015, and P016, maximum capacity shall be 500 lbs/hr and 12,000 lbs/day.
- 3). Source No. P020 shall have a maximum capacity of 656 lbs/hr. Source No. P021 shall have a maximum capacity of 715 lbs/hr.

VII. PAYMENT PURSUANT TO ORC SECTION 3704.06

13. Pursuant to ORC § 3704.06, Rieter shall pay to the State of Ohio a settlement amount of Five Hundred and One Thousand, One Hundred Dollars (\$501,100). Of that amount, the payment of One Hundred Thousand Dollars (\$100,000) is suspended upon the condition that Rieter complies with the terms of paragraph 14 of this Consent Order, which project shall constitute a supplemental environmental project proposed by Rieter in lieu of the payment of this portion of the civil penalty. Further, the payment of Fifty Thousand Dollars (\$50,000) is suspended upon the condition that Rieter complies with the terms of paragraph 15 of this Consent Order, which project shall constitute a second supplemental environmental project proposed by Rieter in lieu of the payment of this portion of the civil penalty. The remaining penalty in the amount of Three Hundred and Fifty-One Thousand, One Hundred Dollars (\$351,100) shall be paid by delivering certified checks totaling 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, in accordance with the following schedule:

- a. The first installment of One Hundred Seventeen Thousand Dollars (\$117,100) shall be due no later than thirty (30) days after entry of this Consent Order.
- b. The second installment of One Hundred Seventeen Thousand Dollars (\$117,000) shall be due no later than March 15, 1996;
- c. The third and final installment of One Hundred Seventeen Thousand Dollars (\$117,000) shall be due no later than June 1, 1996.

VIII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

14. Prior to the entry of this Order, Defendant Rieter has completed the installation of four Hett presses at the facility. Such presses do not utilize a continuous flow of steam and thereby reduce the volume of contaminant-containing gasses to be controlled. The parties anticipate that the usage of such Hett presses, as opposed to conventional presses, will reduce the emission of controlled and uncontrolled air contaminants. Rieter agrees to comply with the emission limits listed in paragraph 12 (c) of this order, and with such limits as they may be modified. However, Rieter agrees to pay to Plaintiff State of Ohio the civil penalty amount of One Hundred Thousand Dollars (\$100,000), which was suspended pursuant to paragraph 13 of this Order, in the event that any modifications to the emission limits applied for by Rieter for sources P013, P014, P015, and P016, or the results of the emissions testing conducted pursuant to paragraph 7 of this order, result in or demonstrate a net total increase in air contaminants, on an hourly or annual basis, beyond the net total emissions for these sources authorized in the May

10, 1995 P.T.I. Rieter agrees and is enjoined to pay this penalty within thirty (30) days of receiving such a modification of the limits for these four sources.

15. Defendant Rieter has proposed to the State that it will undertake a pilot project which will reduce the amount of phenol emitted from the facility, as follows:

- a. Defendant Rieter makes "Resinated Pads" at the facility which are molded into various shapes and which are ultimately used as sound-deadening components in automobiles. These Pads contain approximately 35% resin, by weight, which, in turn, contains approximately 4% phenol, by weight. Of the Resinated Pads produced at the facility, the largest Resinated Pad is known as the "CDW27 Floor Product" which is produced by Air Contaminant Source Nos. P008 and P009. The pad weight of a single "CDW27 Floor Product" is 23.34 pounds, the manufacture of which incorporates approximately 8.2 pounds of resin and approximately 0.33 pounds of phenol into the Pad.
- b. Rieter has agreed to conduct a pilot project whereby it will stop using phenol-based resin in the manufacture of the "CDW27 Floor Product". Instead, Rieter proposes to utilize a "Thermal Plastic Resin" ("TPR"), which contains no phenol, in the manufacture of the "CDW27 Floor Product". Further, the use of TPR in the manufacture of this product will require Rieter to "chill" the Pad during a portion of the curing process. This use of this chilling process during a portion of the curing process will result in the generation of a lesser amount of fumes, when compared to the existing curing process which relies solely on heating. Rieter asserts that this production change will result in a significant reduction in phenol usage and emissions at the facility.

Consequently, within 12 months of the date of entry of this Order, Rieter agrees and is hereby ordered to either completely cease using phenol in the manufacture of the "CDW27 Floor Product" in accordance with subparagraph b., above, or to pay to

Plaintiff State of Ohio the civil penalty amount of Fifty-Thousand Dollars (\$50,000) which was suspended pursuant to paragraph 13 of this Order.

IX. STIPULATED PENALTIES

16. In the event Rieter violates the deadlines set forth in paragraph 7, or violates the permanent injunctions set forth in paragraphs 8, 9, 10, and 12 herein, Rieter 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 PTL, Rieter shall pay a stipulated penalty of Five Thousand Dollars (\$5,000).
- b. For each air contaminant source operated without a permit to operate in violation of OAC Rule 3745-35-02, or otherwise operated in violation of ORC Chapter 3704, Rieter shall pay a stipulated penalty in accordance with the following schedule:
 - 1). For each day of operation without a permit to operate or otherwise in violation of ORC Chapter 3704, up to thirty (30) days -- One Thousand Dollars (\$1,000) per day.
 - 2). For each day of operation without a permit to operate or otherwise in violation of ORC Chapter 3704, from thirty-one (31) to sixty (60) days -- One Thousand Five-Hundred Dollars (\$1,500) per day.
 - 3). For each day of operation without a permit to operate or otherwise in violation of ORC Chapter 3704, over



penalty shall constitute the maximum civil penalty that can be obtained by the State for such violation pursuant to ORC § 3704.06(C). Notwithstanding any other language in this paragraph, in the event of a violation the State may choose to refuse Rieter's tendered payment of a stipulated penalty for such violation and seek civil penalties for such violation in accordance with ORC § 3704.06(C).

17. The provisions of this Consent Order set forth in paragraph 16 requiring the payment of stipulated penalties shall terminate if Defendant has complied with this Order for a period of two years and all penalties required by this Order have been paid. Termination of stipulated penalties shall only be by Order of this Court upon application of any party and only after a demonstration that the conditions set forth in this paragraph have been met. Defendant reserves any rights it has pursuant to Ohio Rule of Civil Procedure 60.

X. POTENTIAL FORCE MAJEURE

18. In any action to enforce any of the provisions of this Consent Order 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 conflicting orders of any regulatory agencies or courts. While Plaintiff does not agree that such a defense exists, it is, however, hereby 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 Order without a force majeure clause does

not constitute a waiver by Defendant of any rights or defense it may have under applicable law or equity.

XI. RETENTION OF JURISDICTION

19. The Court will retain jurisdiction of this action for the purpose of enforcing this Order.

XII. ATTORNEY GENERAL'S ENFORCEMENT COSTS

20. Defendant Rieter hereby agrees and is enjoined to pay to the Ohio Attorney General's Office a sum of Five Thousand Dollars (\$5,000) 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.

IT IS SO ORDERED.

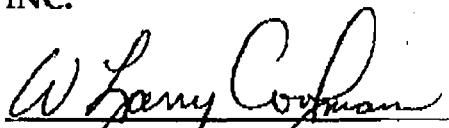


JUDGE, Lucas County
Court of Common Pleas


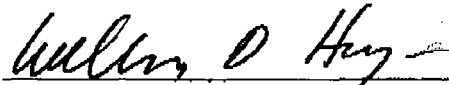
DATE

APPROVED BY:

RIETER AUTOMOTIVE GLOBE
INC.


AUTHORIZED REPRESENTATIVE
RIETER AUTOMOTIVE GLOBE, INC.

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