

**IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO**

STATE OF OHIO, ex rel.	:	CASE NO.
JIM PETRO,	:	
ATTORNEY GENERAL OF OHIO	:	
Environmental Enforcement Section	:	
30 E. Broad Street, 25th Floor	:	
Columbus, Ohio 43215-3428	:	
	:	JUDGE
Plaintiff,	:	
	:	
v.	:	
	:	
WORLD KITCHEN, INC.	:	
1 Pyrex Place	:	
Elmira, NY 14902-1555	:	<u>CONSENT ORDER AND</u>
C/o registered agent, CT Corporation System	:	<u>FINAL JUDGMENT ENTRY</u>
17 South High Street, Suite 1100	:	
Columbus, OH 43215	:	
	:	
and	:	
	:	
EKCO HOUSEWARES, INC.	:	
9234 W. Belmont Avenue	:	
Franklin Park, Illinois 60131	:	
C/o registered agent, CT Corporation System	:	
1300 East 9th Street	:	
Cleveland, Ohio 44114	:	
	:	
and	:	
	:	
EKCO MANUFACTURING OF OHIO, INC.	:	
359 State Avenue, Extension, N.W.	:	
Massilon, Ohio 44646	:	
C/o registered agent, Prentice-Hall Corp. System	:	
50 West Broad Street	:	
Columbus, Ohio 43215	:	
	:	
Defendants.	:	

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio, by its Attorney General Jim Petro (hereinafter "Plaintiff") and Defendants World

Kitchen, Inc., EKCO Housewares, Inc. and EKCO Manufacturing of Ohio, Inc. (collectively “Defendants”) having consented to the entry of this Order.

NOW, THEREFORE, without trial, admission, or determination 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. DEFINITIONS

1. As used in this Order, the following terms are defined as follows:
 - a. “Air contaminant source” or “source” has the same meaning as set forth in R.C. 3704.01(C) and Ohio Adm. Code Rules 3745-31-01(D) and 3745-35-01(B)(1).
 - b. “Director” means the Director of Environmental Protection.
 - c. “Facility” means the facility located at 359 State Avenue, Extension, N.W., Massillon, Stark County, Ohio 44648.
 - d. “Permit to Install” or “PTI” has the same meaning as set forth in Ohio Adm. Code Chapter 3745-31.
 - e. “Ohio EPA” means the Ohio Environmental Protection Agency.
 - f. “K001” and “K002” mean the two coating lines at the Facility identified by Ohio EPA as emissions unit K001 in Permit to Install No. 15-105 issued on November 30, 1979 to EKCO Housewares Company by Ohio EPA and K002 in Permit to Install 15-200 issued on April 25, 1984 to EKCO Housewares Company by Ohio EPA.
 - g. “VOC” means a volatile organic compound as defined at Ohio Adm. Code 3745-21-01(B)(6).

II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. The Complaint states a claim for which relief can be granted against the Defendants pursuant to R.C. Chapter 3704. Venue is proper in this Court.

III. PERSONS BOUND

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

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. The Plaintiff alleges in its Complaint that the Defendants, or their predecessors in interest, have owned and/or operated the Facility in such a manner as to result in violations of the air pollution control laws and regulations of the State of Ohio. Defendants deny such allegations. The parties have agreed to resolve the disputed issues in this matter without adjudication of any issues of fact or law. Compliance with the injunction set forth in paragraph 6 and payment of the civil penalty required by paragraph 7 of this Consent Order shall constitute full satisfaction of and release for any civil liability of Defendants and their officers, employees and agents and their predecessor, parent, subsidiary and affiliate companies, for all violations of the air pollution control laws and regulations of the State of Ohio at the Facility which are alleged in the Complaint or which were known by Ohio EPA or its agents and could have been 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 any violations that occur after the filing of this Consent Order.

V. INJUNCTION

6. Defendant EKCO Manufacturing of Ohio, Inc., as the current owner and operator of the Facility, agrees and is hereby enjoined and ordered to submit, within ten (10) days of entry of this Consent Order, complete and accurate permit to install applications for emissions units K001 and K002 at the Facility which request annual emission limitations for emissions units K001 and K002 of 178 and 37.3 tons of VOC per year, respectively. The applications shall be processed by Ohio EPA as nonattainment New Source Review permits to install to demonstrate compliance with 40 CFR, Part 51, Appendix S (the governing regulation at the time of the installations). However, Ohio EPA has determined, based on information provided by Defendant EKCO Manufacturing of Ohio, Inc. that the lowest achievable emission rate (“LAER”) has been demonstrated for emissions units K001 and K002 and that no further emissions offsets or additional control equipment will be required for these emissions units.

VI. CIVIL PENALTY

7. Defendants agree to pay a civil penalty owed to the Ohio EPA in the amount of Two Hundred Eighty-Eight Thousand Four Hundred Dollars (\$288,400), which shall be satisfied pursuant to Ohio EPA’s general unsecured claim, Claim No. 1556 (the “Claim”) asserted in Defendants’ Chapter 11 bankruptcy proceedings, In Re: World Kitchen, Inc., a Delaware corporation, et al., Case Nos. 02-B21257 through 02-B21268 (Jointly Administered), United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the “Bankruptcy Case”). Defendants agree that the Claim will be an allowed claim of \$288,400, which shall be satisfied and discharged solely in accordance with the provisions for Class 10 claims under World Kitchen, Inc.’s Amended Joint Plan of Reorganization, dated October 18, 2002, which was confirmed by the Bankruptcy Court on December 23, 2002 and became effective on January

31, 2003. Distribution on account of the Claim shall be by check made payable to the Order of “Treasurer, State of Ohio” and delivered to Jena Suhadolnik or her successor, Administrative Assistant, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428 in accordance with the terms of the Plan and the Order of the Bankruptcy Court confirming the Plan. Any and all prepetition claims filed or asserted by the Ohio EPA in the Bankruptcy Case shall be disallowed and expunged.

VII. RETENTION OF JURISDICTION

8. Except with respect to matters for which the Bankruptcy Court has exclusive jurisdiction, the Court will retain jurisdiction of this action for purposes of enforcing this Order.

VIII. COSTS

9. Defendants are hereby ordered to pay the court costs of this action.

IX. ENTRY OF CONSENT ORDER

10. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. 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 note the service in the appearance docket.

IT IS SO ORDERED

DATE

**JUDGE, STARK COUNTY
COURT OF COMMON PLEAS**

APPROVED:

**WORLD KITCHEN, INC.
and
EKCO HOUSEWARES, INC.
and
EKCO MANUFACTURING OF OHIO, INC.**

**JIM PETRO
ATTORNEY GENERAL OF OHIO**

BY:

BY:

Michael A. Cyphert (0007086)
Walter & Haverfield LLP
1300 Terminal Tower
50 Public Square
Cleveland, Ohio 44113-2253
Telephone: (216) 781-1212
*Attorney for Defendants,
World Kitchen, Inc.
EKCO Housewares, Inc.
EKCO Manufacturing of Ohio, Inc.*

Yanna Robson-Higgins (0069023)
John K. McManus (0037140)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428
Telephone: (614) 466-2766
*Attorneys for Plaintiff,
State of Ohio*

Authorized Representative of World Kitchen, Inc, EKCO Housewares, Inc. and EKCO Manufacturing of Ohio, Inc.