

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

STATE OF OHIO, ex rel. JIM PETRO	:	CASE NO. A0402701
ATTORNEY GENERAL OF OHIO,	:	
	:	JUDGE MARTIN
Plaintiff,	:	
	:	
v.	:	
	:	
THE AVON WORKSHOP, INC.	:	<u>CONSENT ORDER</u>
	:	<u>AND FINAL JUDGMENT ENTRY</u>
Defendant.	:	

Plaintiff, the State of Ohio, by its Attorney General Jim Petro, at the written request of the Director of Environmental Protection, having filed a Complaint seeking injunctive relief and civil penalties from Defendant The Avon Workshop, Inc. (hereinafter "Defendant" or "Avon") for violations of R.C. Chapter 3704 and the rules promulgated thereunder, and the parties 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. "Facility" means the woodworking and coating facility located at 6245 Creek Road, Cincinnati, Hamilton County, Ohio.
 - b. "Ohio EPA" means the Ohio Environmental Protection Agency including its delegate, Hamilton County Department of Environmental Services.
 - c. "Director" means the Director of Environmental Protection.
 - d. "Air contaminant source" or "source" has the same meaning as set forth in R.C. 3704.01(C) and Ohio Administrative Code ("O.A.C.") 3745-31-01(D) and 3745-35-01(B)(1).



- e. "Permit to Operate" or "PTO" has the same meaning as set forth in O.A.C. Chapter 3745-35.
- f. "Permit to Install" or "PTI" has the same meaning as set forth in O.A.C. Chapter 3745-31.

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 pursuant to R.C. Chapter 3704. Venue is proper in this Court.

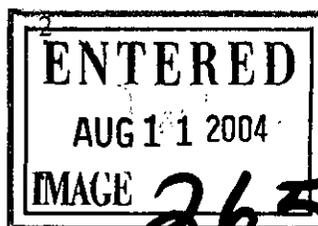
III. PERSONS BOUND

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 those 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 Defendant has owned and operated the Facility in such a manner as to result in permitting and reporting violations of the air pollution control laws and regulations of the State of Ohio. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of the Defendant to the Plaintiff for the claims alleged in the Plaintiff's Complaint.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State of Ohio from bringing any action against the Defendant for any



violations that occur after the entry of this Order. Nothing in this Consent Order shall be construed to relieve the Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

V. PERMANENT INJUNCTION

6. Defendant Avon is hereby enjoined and ordered to immediately and permanently comply with R.C. Chapter 3704 and the regulations adopted thereunder, including all terms and conditions of any currently effective Permit to Install and Permit to Operate and any subsequent renewals or modifications thereafter that pertain to this Facility. Specifically, Defendant agrees to refrain and is hereby permanently enjoined from "installing" or "modifying" any air contaminant source, as those terms are defined by O.A.C. 3745-31-01(LL) and (VV), without first applying for and obtaining a Permit to Install from the Director in accordance with O.A.C. Chapter 3745-31. In addition, Defendant agrees to refrain and is hereby permanently enjoined from operating any air contaminant source without first applying for and receiving the appropriate operating permit from the Director in accordance with O.A.C. Chapters 3745-31, 3745-35 and/or 3745-77, as applicable. Further, Defendant agrees and is hereby permanently and immediately enjoined and ordered to comply with all terms and conditions of any Permit to Install and any Permit to Operate and any subsequent renewals or modifications thereof which have been or are issued to Defendant Avon by the Director, including but not limited to all reporting/record keeping requirements and all emissions limitations.

VI. CIVIL PENALTY

7. Pursuant to R.C. 3704.06, Defendant Avon shall pay to the State of Ohio a civil



penalty of \$40,000. Defendant is enjoined and ordered to pay the civil penalty of \$40,000 in accordance with the following schedule and the requirements of this paragraph:

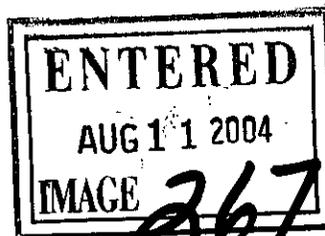
- a.) \$20,000 cash within thirty (30) days of entry of this Order;
- b.) \$20,000 plus interest at six percent per annum, calculated at the time of payment, to be paid no later than January 15, ~~2004~~²⁰⁰⁵ *JRM SEM*

Each payment required under this paragraph number 7 shall be satisfied by delivering a company check payable to the Order of "Treasurer, State of Ohio," to Lyndia Jennings 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 those amounts on or before the dates specified above.

VII. STIPULATED PENALTIES

8. In the event that Defendant fails to comply with any of the requirements imposed by paragraphs 6-7 of this Consent Order, other than reporting requirements, Defendant shall, immediately and automatically be liable for and shall pay a stipulated penalty of One Thousand Dollars (\$1,000.00) per day per violation. In the event that Defendant fails to comply with any reporting requirement imposed by paragraph 6 of this Consent Order, Defendant shall, immediately and automatically be liable for and shall pay a stipulated penalty of One Hundred Dollars (\$100.00) per day per violation.

9. In the event Defendant fails to meet any of the requirements of this Consent Order, the Defendant shall immediately and automatically be liable for payment of stipulated penalties imposed by this Order without prior demand by the State of Ohio. Payment of all stipulated penalties shall be paid by Defendant by its delivering to Plaintiff a certified check(s) in



the appropriate amount(s), payable to the order of "Treasurer, State of Ohio," immediately upon the occurrence of the violation giving rise to the penalty. Payment shall be delivered to Plaintiff, c/o Lyndia Jennings, Administrative Assistant, or her successor, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3428.

10. The imposition, payment and collection of stipulated penalties pursuant to violations of this Consent Order shall not prevent the State from pursuing additional remedies, civil, criminal or administrative, for violations of applicable laws, subject to Defendant's right to defend.

11. Nothing in this Section VII shall prevent the State of Ohio from bringing an action in contempt against Defendant Avon for noncompliance with this Consent Order, or, in lieu of accepting stipulated penalties, from seeking civil penalties pursuant to R.C. Chapter 3704 for violations of that Chapter or rules adopted thereunder, subject to Defendant's right to defend.

VIII. RETENTION OF JURISDICTION

12. The Court will retain jurisdiction of this action for purposes of interpreting and enforcing this Consent Order.

IX. TERMINATION

13. No earlier than three (3) years after the entry of this Consent Order, and paid all civil and/or stipulated penalties that may be due, Defendant may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order. Plaintiff takes no position with regard to such motion at this time, and reserves its rights to oppose the motion. Termination of any or all of the provisions of this Consent



Order may also be granted upon joint motion of the parties.

X. COURT COSTS

14. The Defendant is hereby ordered to pay all court costs of this action.

XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

15. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three days of entering the judgment upon the journal, the clerk is directed to serve upon all the 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.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

16. Each signatory for the Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the respective corporation to all terms and conditions thereof.

IT IS SO ORDERED

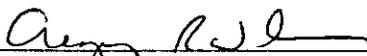
DATE

COURT OF COMMON PLEAS
ENTER
[Signature]
HON. STEVEN E. MARTIN
THE CLERK SHALL SERVE NOTICE
TO PARTIES PURSUANT TO CIVIL
RULE 58 WHICH IS FILED IN
COURT OF COMMON PLEAS
HAMILTON COUNTY

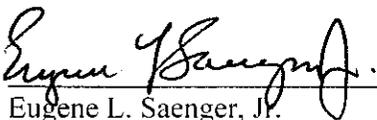
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IMAGE 269

APPROVED:

THE AVON WORKSHOP, INC.

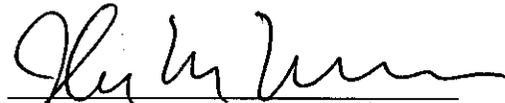


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