

COPY

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

STATE OF OHIO, ex. rel.
JIM PETRO
ATTORNEY GENERAL OF OHIO
Environmental Enforcement Section
30 East Broad Street
Columbus, Ohio 43215,

Plaintiff,

v.

HAZARD MANAGEMENT GROUP, INC.
c/o Statutory Agent
Martha Demshar
2425 Middle Road
Ashtabula, Ohio 44005

and

GABRIEL DARRIN DEMSHAR
1949 Forman Road
Jefferson, Ohio 44047,

Defendants.

CASE NO. 05CV 952
JUDGE Judge Ronald W. Vettel

COMPLAINT FOR CIVIL PENALTIES
AND INJUNCTIVE RELIEF

2005 SEP 20 P 1:27
CAROL A. MEAD
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO, OH

FILED

CAROL A. MEAD
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO, OH

2005 SEP 20 P 1:26

Plaintiff State of Ohio, by and through the Attorney General Jim Petro, at the written request of the Director of Environmental Protection ("Director"), hereby institutes this action to enforce Chapter 3704 of the Ohio Revised Code (R.C.) and the rules adopted thereunder. The Plaintiff alleges as follows:

GENERAL ALLEGATIONS

1. Defendant Hazard Management Group, Inc. ("Hazard Management") is an Ohio Corporation with a business address of 2425 Middle Road, Ashtabula, Ohio 44005-2450.
2. Defendant Gabriel Darrin Demshar ("Demshar") is the President of Hazard Management.

3. Defendant Demshar, by virtue of his position with Hazard Management, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. In addition, or in the alternative, Defendant Demshar knew about or should have known about these violations, and by himself or in conjunction with others, had the authority to prevent or stop these violations, but failed to exercise his authority to do so. Defendant Demshar is personally liable for these violations.

4. Each Defendant is a “person” as defined by R.C. 1.59 and 3704.01(O).

5. Beginning sometime on or before July 6, 2001 and continuing until at least August 31, 2002, Defendants removed asbestos-containing materials from the ceilings, walls, surface areas, and pipes of the Nordonia Hills Middle School at 73 Leonard Avenue, Northfield, Summit County, Ohio (“the Middle School”).

6. Beginning sometime on or before July 6, 2001 and continuing until at least August 31, 2002, Defendants’ actions at the Middle School constituted a “renovation” as defined by Ohio Adm.Code 3745-20-01(B).

7. Nordonia Hills Middle School, where Defendants conducted the renovation, constituted a “facility” as defined by Ohio Adm.Code 3745-20-01(B) and 3745-15-01.

8. Defendants are “owners” or “operators” of the renovation operation at the Middle School as defined by Ohio Adm.Code 3745-20-01(B).

9. Nordonia Hills Middle School contained “friable asbestos material” as defined by Ohio Adm.Code 3745-20-01(B).

10. The ceilings, walls, pipes and surface areas inside of the Middle School from which Defendants removed asbestos constituted “facility components” as defined in Ohio Adm.Code 3745-20-01(B).

11. The renovation operation at the Middle School constituted a “source” as defined in Ohio Adm.Code 3745-15-01 of “air contaminants” as defined in R.C. 3704.01(B) and Ohio Adm.Code 3745-15-01.

12. Akron Regional Air Quality Management District is an “Ohio EPA field office” as defined in Ohio Adm.Code 3745-20-01(B).

13. At the Middle School identified in paragraph 5 of this Complaint, the amount of friable asbestos materials that was stripped or removed from pipes was at least two hundred sixty linear feet, or at least one hundred sixty square feet of friable asbestos material on other facility components.

14. Pursuant to Ohio Adm.Code 3745-20-02(B)(1), the requirements of Ohio Adm.Code 3745-20-03, Ohio Adm.Code 3745-20-04, and Ohio Adm.Code 3745-20-05 apply to each owner or operator of a renovation or demolition operation when the combined amount of regulated asbestos-containing material is at least two hundred sixty linear feet, or at least one hundred sixty square feet on other facility components.

15. R.C. 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under R.C. Chapter 3704.

16. All rules referenced in this Complaint have been adopted by the Director under R.C. Chapter 3704.

17. Pursuant to Civ. R. 8(A), the State informs the Court that the amount sought is in excess of Twenty-Five Thousand Dollars (\$25,000.00).

18. The general allegations contained in the preceding paragraphs are applicable to each count of the Complaint and are incorporated by reference into each as if fully restated in each count.

COUNT ONE
FAILURE TO ENSURE REMOVED FRIABLE ASBESTOS MATERIALS
REMAIN WET UNTIL COLLECTED FOR DISPOSAL

19. Ohio Adm.Code 3745-20-04(A)(5)(a) provided, at all times relevant to this Complaint, in part, that each owner or operator of a demolition/renovation operation shall ensure that friable asbestos materials have been removed or stripped from facility components remain adequately wet until such materials are collected for disposal in accordance with Ohio Adm.Code 3745-20-05.

20. "Adequately wet," as defined in Ohio Adm.Code 3745-20-01(B), means sufficiently mix or penetrate or coat with liquid to prevent dust emissions.

21. On August 22, 2001, and other dates not yet known to Plaintiff, Defendants failed to ensure that friable asbestos materials removed or stripped from the facility components at the Middle School remained adequately wet until the materials could be collected for disposal.

22. The acts alleged in this count constitute violations of Ohio Adm.Code 3745-20-04(A)(5)(a) and R.C. 3704.05(G), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B), and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation, pursuant to R.C. 3704.06(C).

COUNT TWO
FAILURE TO REMOVE ALL FRIABLE ASBESTOS MATERIALS
BEFORE REMOVAL OF EMISSION CONTROLS

23. Ohio Adm.Code 3745-20-04(B) provided, at all times relevant to this Complaint, in part, that each owner or operator of a demolition/renovation operation shall ensure that all asbestos-containing materials which have been damaged or made friable by demolition, renovation or adjacent stripping operations are repaired, encapsulated or removed for disposal in accordance with Ohio Adm.Code 3745-20-05(C), prior to the removal of emission controls.

24. On August 22, 2001, or other dates not yet known to the Plaintiff, Defendants failed to ensure that all asbestos-containing materials which have been damaged or made friable by demolition, renovation or adjacent stripping operations were repaired, encapsulated or removed for disposal prior to the removal of emission controls.

25. The acts alleged in this count constitute violations of Ohio Adm.Code 3745-20-04(B) and R.C. 3704.05(G), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B), and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation, pursuant to R.C. 3704.06(C).

COUNT THREE
FAILURE TO PROVIDE ADEQUATE NOTICE
OF CHANGE IN AMOUNT

26. Ohio Adm.Code 3745-20-03(D)(1) provided, at all times relevant to this Complaint, in part, that each owner or operator of a demolition/renovation operation was to provide the appropriate Ohio EPA field office with an amended written Notification within two days following any change in amount of friable asbestos materials to be removed during the demolition/renovation operations identified in the original Notification.

27. On August 22, 2001, or other dates not yet known to the Plaintiff, Defendants failed to submit an amended written notification to the appropriate Ohio EPA field office (Akron Regional Air Quality Management District) within two days following a change in amount of friable asbestos materials to be removed during the renovation operations at the Middle School.

28. The acts alleged in this count constitute violations of Ohio Adm.Code 3745-20-03(D)(1) and R.C. 3704.05(G), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B), and for which Defendants are liable to pay the State of Ohio civil

penalties of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation, pursuant to R.C. 3704.06(C).

COUNT FOUR
FAILURE TO PROVIDE NOTICE
OF CHANGED RENOVATION SCHEDULE

29. Ohio Adm.Code 3745-20-03(D)(2) provided, at all times relevant to this Complaint, in part, that each owner or operator of a demolition/renovation operation was to provide the appropriate Ohio EPA field office with an amended written Notification within two days following any deviation in the demolition or renovation schedule identified in the original Notification. The notice must include the completion date of asbestos removal work in the demolition and/or renovation.

30. On June 12, 2002, or other dates not yet known to the Plaintiff, Defendants failed to notify the appropriate Ohio EPA field office (Akron Regional Air Quality Management District) in writing of its intention to deviate from the renovation schedule by extending the completion date of the renovation operation at the Middle School.

31. The acts alleged in this count constitute violations of Ohio Adm.Code 3745-20-03(D)(2) and R.C. 3704.05(G), for which Defendants are subject to injunctive relief pursuant to R.C. 3704.06(B), and for which Defendants are liable to pay the State of Ohio civil penalties of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation, pursuant to R.C. 3704.06(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Issue an injunction enjoining Defendants to comply with R.C. Chapter 3704 and Ohio Adm.Code 3745-20 before and while removing or handling any friable asbestos material in this state;

B. Order the Defendants, pursuant to R.C. 3704.06, to pay civil penalties for the violations set forth in the amount of Twenty-Five Thousand Dollars (\$25,000.00) per day for each violation;

C. Order Defendants to pay for the costs of this action, including ordering Defendants to pay reasonable attorneys' fees;

D. Retain jurisdiction of this suit for the purpose of making any order or decree which it may deem necessary at any time to carry out its judgment; and

E. Grant such other relief as may be just.

Respectfully submitted,

JIM PETRO
ATTORNEY GENERAL



Nathaniel S. Orosz (0077770)
John K. McManus (0037140)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Norosz@ag.state.oh.us

Counsel for Plaintiff State of Ohio

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

STATE OF OHIO, ex rel.
JIM PETRO
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30 East Broad Street
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Plaintiff,

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HAZARD MANAGEMENT GROUP, INC.
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Martha Demshar
P.O. Box 2450
2425 Middle Road
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and

GABRIEL DARRIN DEMSHAR
1949 Forman Road
Jefferson, Ohio 44047,

Defendants.

CASE NO. 0 5CV 952
JUDGE Judge Ronald W. Vettel

CONSENT ORDER AND
FINAL JUDGMENT ENTRY

CAROL A. MEAD
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO. OH

2005 SEP 22 A 10: 29

FILED

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Plaintiff, State of Ohio, ex rel. Jim Petro, Attorney General of Ohio ("Plaintiff"), having filed the Complaint in this action against Defendants to enforce Ohio's asbestos handling and air pollution control laws found in R.C. Chapter 3704 and rules adopted thereunder; and Plaintiff and Defendants having consented to the entry of this Order;

THEREFORE, without trial or admission of any issue of law or of fact, 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 3745-31-01(I) and 3745-35-01(B).
- b. "Consent Order" or "Order" means this Consent Order and Final Judgment Entry.
- c. "Director" means the Director of Ohio EPA.
- d. "Ohio EPA" means the Ohio Environmental Protection Agency.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3704 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, their agents, officers, employees, assigns, successors-in-interest, and any person acting in concert, privity or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants 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 from bringing any action against Defendants for any violations that occur after the entry of this Order. Nothing in this Consent Order shall be construed to relieve Defendants of their obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

V. INJUNCTIVE RELIEF

6. Defendants are hereby ordered and enjoined to comply with R.C. Chapter 3704 and the regulations adopted thereunder including, but not limited to, Ohio Adm.Code Chapter 3745-20.

7. Defendants are hereby ordered and enjoined to comply with the asbestos removal and handling requirements of Ohio Adm.Code 3745-20-04(A)(6)(a).

8. Defendants are hereby ordered and enjoined to comply with the asbestos removal and handling requirements of Ohio Adm.Code 3745-20-04(C).

9. Defendants are hereby ordered and enjoined to comply with the notification requirements of Ohio Adm.Code 3745-20-03(D).

VI. CIVIL PENALTY

10. Pursuant to and in accordance with R.C. 3704.06, Defendants Hazard Management Group, Inc. and Gabriel Darrin Demshar are enjoined and ordered to pay a total civil penalty of Eight Thousand Dollars (\$8,000). This amount shall be paid in cash by certified check payable to the Order of "Treasurer, State of Ohio" and delivered within 30 days of entry of this Consent Order to Amy Laws or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

VII. STIPULATED PENALTIES

11. In the event that Defendants fail to comply with any requirement or deadline contained in this Consent Order or any requirement or deadline contained in any document approved in accordance with this Consent Order, Defendants are liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:

- a. For each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including thirty (30) days--
Five Hundred Dollars (\$500.00) per day for each requirement or deadline not met.
- b. For each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) to sixty (60) days--
One Thousand Dollars (\$1,000.00) per day for each requirement or deadline not met.
- c. For each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty (60) days--
Two Thousand Dollars (\$2,000.00) per day for each requirement or deadline not met.

12. Any payment required to be made under the provisions of this Section of the Consent Order shall be made by delivering to Plaintiff, c/o Amy Laws or her successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a cashier's or certified check or checks made payable to the order of "Treasurer, State of Ohio," for the appropriate amount within thirty (30) days from the date of the failure to meet the requirement or deadline of this Consent Order. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline or requirement not met and the date upon which the violation of this Consent Order occurred.

13. The requirement to pay any stipulated penalty as set forth herein is self-executing upon the failure of Defendants to meet any requirement or deadline in this Consent Order or any

document required by this Consent Order. No further demand need be made by Plaintiff.

14. The payment of stipulated penalties by Defendants and the acceptance of such stipulated penalties by Plaintiff pursuant to this Section shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3704, including civil penalties under R.C. 3704.06, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

VIII. JOINT AND SEVERAL LIABILITY

15. The obligations of Defendants to perform the requirements and to pay the amounts owed to the State under this Consent Order are joint and several. In the event of the insolvency, bankruptcy, or other failure of any one Defendant to implement the requirements of this Consent Order, the remaining Defendant shall complete all such requirements.

IX. COMPLIANCE WITH APPLICABLE LAWS, PERMITS AND APPROVALS

16. All activities undertaken by Defendants pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable federal, state and local laws, rules, regulations and permits or other approvals. Defendants shall submit timely applications and requests for any such permits and approvals. Where such laws appear to conflict with the other requirements of this Consent Order, Defendants are ordered and enjoined to immediately notify Ohio EPA of the potential conflict. This Consent Order is not a permit issued pursuant to any federal, state or local law or rule.

X. ATTORNEY GENERAL'S ENFORCEMENT COSTS

17. For Plaintiff Attorney General's enforcement costs in investigating and prosecuting this case, Defendants are ordered and enjoined to reimburse the Attorney General's Office in the amount of One Thousand Dollars (\$1,000). This amount shall be paid by delivering to Plaintiff,

c/o Amy Laws or her successor, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a cashier's or certified check in that amount, payable to the order of "Treasurer, State of Ohio" within thirty (30) days after the effective date of this Consent Order.

XI. RETENTION OF JURISDICTION

18. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order.

XII. COSTS

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

XIII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

20. 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.

XIV. AUTHORITY TO ENTER INTO THE CONSENT ORDER

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

IT IS SO ORDERED:

Judge Ronald W. Vettel

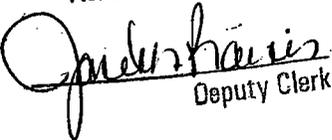
JUDGE

ASHTABULA COUNTY
COURT OF COMMON PLEAS

The State of Ohio,
Ashtabula County, ss.

I, hereby certify that the foregoing is
a true copy of the instrument on file in
my office.

ATTEST: Carol A. Mead
Clerk of Courts
Ashtabula County, Ohio

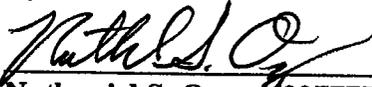
BY: 
Deputy Clerk

Respectfully submitted,

JIM PETRO
ATTORNEY GENERAL

HAZARD MANAGEMENT
GROUP, INC.

By:



Nathaniel S. Orosz (0077770)
John K. McManus (0037140)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Norosz@ag.state.oh.us

Attorneys for Plaintiff
State of Ohio

By:



Authorized Representative
Hazard Management Group, Inc.
P.O. Box 2450, 2425 Middle Road
Ashtabula, Ohio 44005

and

GABRIEL DARRIN DEMSHAR



Gabriel Darrin Demshar
President
Hazard Management Group, Inc.
1949 Forman Road
Jefferson, Ohio 44047



STATE OF OHIO
 OFFICE OF THE ATTORNEY GENERAL
 JIM PEIRO, ATTORNEY GENERAL
 MEMORANDUM

Environmental Enforcement
 30 E. Broad St.
 Columbus, OH 43215-3400
 Telephone: (614) 466-2766
 Facsimile: (614) 644-1926
 www.ag.state.oh.us

TO: Brenda Case
 OEPA Fiscal Administration

FROM: Lyndia Jennings, Administrative Secretary
 Environmental Enforcement Section

CC: Nathaniel Orosz, AAG/EES

DATE: October 3, 2005

RE: Check(s)

<input checked="" type="checkbox"/>	Civil Penalty
<input type="checkbox"/>	Criminal/Finding
<input type="checkbox"/>	Criminal Restitution
<input type="checkbox"/>	Cost Recovery
<input type="checkbox"/>	Environmental Claims
<input type="checkbox"/>	Other

Attached please find check #726972299 in the amount of \$8,000.00 from case no. 05CV952 State of Ohio vs. Hazard Management Group & Gabriel Demshar for civil penalty.

These funds are to be deposited into the following account(s):

- Air
- Drinking Water
- Waste/Surface Water
- Hazardous Waste
- Solid Waste
- Environmental Education
- Immediate Removal/
Emergency Response
- Other

Received By:

Signature _____ Date: _____

Printed Name _____

OFFICIAL CHECK



KeyBank National Association
22 East Jefferson
Jefferson, OH 44047

PAY TO THE ORDER OF
TREASURER STATE OF OHIO

Eight thousand and 00/100

\$ *****8,000.00

DOLLARS

Drawer: KeyBank

Clara Taylor

AUTHORIZED SIGNATURE

MEMO: DARRIN DEMSHAR

Issued by Integrated Payment Systems Inc, Englewood, Colorado
KeyBank National Association, Denver, Colorado

⑆000152⑆ ⑆102003918⑆ 28000726972299⑆

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STATE OF OHIO
OFFICE OF THE ATTORNEY GENERAL
JIM PETRO, ATTORNEY GENERAL

RECEIVED FROM ENVIRONMENTAL ENFORCEMENT

DATE:

October 3, 2005

DEPOSIT TO:

Fund 106/6300/Attorney Fees	\$	1,000.00
Fund 106/6300/Investigative Costs		
Fund 659/6320/Solid & Hazardous Waste Bckgrd Inv.		
Fund 659/6320/Xeroxing		
Fund GRF/6300/Xeroxing Costs		
EPA [] [] []		
Fund R04/6300/ []		
Miscellaneous []		
TOTAL DEPOSIT	\$	1,000.00

VERIFIED BY:

DEPOSITED BY:

RECEIVED BY:

OFFICIAL CHECK

MEMORANDUM TO THE

TREASURER, STATE OF OHIO

CHIEF OF BUREAU OF REVENUE

MEMORANDUM

FOR THE RECORD

DATE: 10/21/2003

BY: [Signature]

10/21/2003

\$ 1,000.00

DOLLARS

Drawn: KeyBank

AUTHORIZED SIGNATURE

[Signature]

⑈000152⑈+⑈102003918⑈ 28000725972300⑈

THE VARIABLE TONE BACKGROUND