

IN THE COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO
DELORES REED
ATTY GENERAL

FILED
COURT OF COMMON PLEAS

JUL 24 1996

DELORES REED, Clerk
PORTAGE COUNTY, OHIO

STATE OF OHIO, EX REL.
BETTY D. MONTGOMERY
ATTORNEY GENERAL OF OHIO

Aug 13 9 05 AM '96

CASE NO. 93-CV-0260
CASE NO. 95-CV-0307

PLAINTIFF,

JUDICIAL ENFORCEMENT JUDGE JOSEPH R. KAINRAD

VS.

A & B REFUSE DISPOSERS, INC.
et al.

SENTENCING ENTRY
AND ORDER FOR FIRST
FINDING OF CONTEMPT

DEFENDANTS

This matter is before the Court on the Plaintiff State of Ohio's Written Charges In Contempt, Plaintiff's Amended Written Charges in Contempt, and Plaintiff's Motion To Show Cause:

- 1.) why Defendants Cynthia Wagner and A & B Refuse Disposers, Inc. should not be held in contempt for violating this Court's Judgment Entry and Order of January 22, 1996, and;
- 2.) why Defendants Trusts For The Benefit Of ("FBO") Roderick J. Wagner, FBO Stacey C. Wagner, FBO Carey C. Wagner and FBO John D. Wagner should not be held in contempt for violating this Court's Judgment Entry and Order of November 13, 1995.

An evidentiary hearing on the record was conducted on February 20, 1996, at which time the State offered evidence sufficient to warrant a finding of contempt. Defendants requested and were provided several continuances until July 18, 1996 to prepare a defense to the charges and amended charges. At the hearing held on July 18th, Defendants failed to appear and present a defense. Consequently, it is the finding of this Court that the Defendants are in contempt of Court for the first time in this matter for their failure to comply with this Court's Orders of January 22, 1996 and November 13, 1995.

For being in contempt, the Court imposes the following sentences pursuant to O.R.C. Sections 2705.03, 2705.05 and 2705.06:

- 1.) As against Defendant A & B Refuse Disposers, Inc. it is hereby Ordered that:
 - a.) A & B Refuse Disposers shall immediately comply with all terms and

JR 312 pg 089

conditions of this Court's Order of January 22, 1996, except that it need not pay the \$51,000 penalty until the matter before the United States Bankruptcy Court for the Northern District of Ohio, Case No. 94-40149, is resolved either through dismissal, Court Entry, liquidation or otherwise;

b.) A & B Refuse Disposers, Inc. comply with all applicable state, federal and local laws, regulations and/or ordinances.

2.) As against Defendant Cynthia Wagner, it is hereby Ordered that:

a.) she immediately comply with all terms and conditions of this Court's Order of January 22, 1996;

b.) pursuant to O.R.C. Section 2705.05, she be sentenced to thirty days jail time in the Portage County Jail, such sentence to be served immediately;

c.) pursuant to O.R.C. Section 2705.05, she be fined \$250 for each thirty day period during which she fails to comply with this Court's Order of January 22, 1996, beginning from July 18, 1996 and continuing until the present, such fine to be paid immediately;

d.) pursuant to O.R.C. Section 2705.06, she be confined to jail until such time as she purges her contempt. Defendant Cynthia Wagner shall be purged of her contempt only after she complies with the terms and conditions of the Court's Order January 22, 1996 in their entirety and in full;

e.) she comply with all applicable state, federal and local laws, regulations and/or ordinances;

f.) she pay all court costs associated with this case, including witness fees and attorneys fees for prosecution of this contempt action.

3.) As to Defendants Trusts FBO Roderick J. Wagner, FBO Stacey C. Wagner, FBO Carey C. Wagner and FBO John D. Wagner, it is hereby Ordered that:

a.) they immediately comply with all terms and conditions of this Court's Order of November 13, 1995;

b.) pursuant to O.R.C. Section 2705.05, Cynthia Wagner, as Trustee for the four Defendant Trusts, be sentenced to thirty days jail time in the Portage County Jail, such sentence to be served immediately and concurrently with the sentence imposed herein against her personally for her personal contempt of court;

c.) pursuant to O.R.C. Section 2705.05, they be fined \$250 for each thirty day period during which they fail to comply with this Court's Order of November 13, 1995, beginning from July 18, 1996 and continuing until the present, such fine to be paid immediately;

d.) pursuant to O.R.C. Section 2705.06, Cynthia Wagner, as Trustee for the

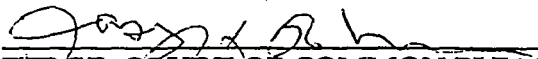
four Defendant Trusts, be confined to jail until such time as the Defendant Trusts purge their contempt. The four Defendant Trusts shall be purged of their contempt only after they comply with the terms and conditions of the Court's Order of November 13, 1995 in their entirety and in full;

e.) they comply with all applicable state, federal and local laws, regulations and/or ordinances;

f.) they pay all court costs associated with this case, including witness fees and attorneys fees for prosecution of this contempt action.

IT IS SO ORDERED

7-23-96
DATE


JUDGE, COURT OF COMMON PLEAS
PORTAGE COUNTY, OHIO

CERTIFICATE OF SERVICE

I hereby certify that a true time-stamped copy of the foregoing SENTENCING ENTRY AND ORDER FOR FIRST FINDING OF CONTEMPT has been sent by regular U.S. Mail, postage prepaid, on this _____ day of _____, 1996 to the following:

Cynthia Wagner
665 N. McCarran Blvd.
Sparks, NV 89431
Trustee for Defendants in Case No. 95-CV-307
Defendant Pro Se in Case No. 93-CV-0260

Cynthia Wagner
2950 Bobby Drive
Reno, NV 89502
Defendant Pro Se in Case No. 93-CV-0260

Carl Rafoth
40 N. Phelps Street
Youngstown, Ohio 44503
Trustee for A & B in Bankruptcy Case No. 94-40149

A&B Refuse Disposers, Inc.
210 Scott Street
Warren, Ohio 44483
Defendant in Case No. 93-CV-0260

David G. Cox
Assistant Attorney General
Environmental Enforcement Section
30 E. Broad Street, 25th floor
Columbus, Ohio 43215-3428
Counsel for State of Ohio in
Case Nos. 93-CV-0260 and 95-CV-0307

Michael Baker
Suite 650
Public Square
Cleveland, Ohio 44113-2001
former counsel for Defendant Cynthia Wagner

Clerk of Courts, Portage County

JR 312 pg 092