

IN THE COURT OF COMMON PLEAS
LAWRENCE COUNTY, OHIO

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STATE OF OHIO ex rel.
MICHAEL DEWINE
OHIO ATTORNEY GENERAL

Plaintiff,

v.

DREAMA ASHWORTH

and

D.J. ASHWORTH, INC.

Defendants.

Case No. 12 OC 35

JUDGE: D. SCOTT BOWLING

CONSENT ORDER

1. Plaintiff, the State of Ohio ("Plaintiff"/"State"), by and through its counsel Attorney General Michael DeWine, filed a Complaint against Defendants Dreama Ashworth and D.J. Ashworth, Inc. (Defendants) alleging violations of Ohio's Solid Waste and Construction & Demolition Debris laws, Ohio Revised Code ("R.C.") Chapters 3734 and 3714 respectively, occurring at properties designated as Site 0, Site 1 and Site 2. Site 0 is described in Book 580, page 697, in the Lawrence County Records as Parcel 15-136-1400. Site 1 is described in Book 587, page 243, in the Lawrence County Records as Parcel 15-136-0400. Site 2 is described in Book 611, page 442, in the Lawrence County Records as Parcel 15-103-0900. Defendant, Dreama Ashworth, was one of the owners of Site 0 and Site 1 at all times relevant to the Complaint. Site 2 was owned by Defendant D.J. Ashworth, Inc. at all times relevant to the Complaint. This Consent Order constitutes a resolution of all disputed claims against these Defendants in the Complaint.

NOW THEREFORE, without the trial 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. JURISDICTION AND VENUE

1. The Court has jurisdiction over both the parties and the subject matter of this action pursuant to R.C. Chapters 3734 and 3714. The Complaint states a claim upon which relief can be granted against Defendants under R.C. Chapters 3734 and 3714. Venue is proper in this Court.

II. PERSONS BOUND

2. All terms and provisions of this Consent Order shall apply to and be binding upon the Defendants, their agents, employees, assigns, successors in interest and any person acting in concert, privity or participation with Defendants. Defendants shall provide a copy of this Consent Order to each general contractor and/or consultant employed to perform work itemized herein.

III. SATISFACTION OF LAWSUIT

3. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability by Defendants for all claims alleged in the State's Complaint.

IV. RESERVATION OF RIGHTS

4. Nothing in this Consent Order shall limit the authority of the State of Ohio to:
- (a) Seek any legal or equitable relief from Defendants or any other appropriate person for claims or conditions not alleged in the Complaint, including violations that occur after the filing of the Complaint;
 - (b) Seek any legal or equitable relief from Defendants, or any other appropriate person for claims or conditions alleged in the Complaint that occur or exist on the date of or after the entry of this Consent Order, to the extent that those claims or conditions are not addressed by this Consent Order;
 - (c) Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;
 - (d) Take any action authorized by law against any appropriate person, including Defendants, to eliminate or mitigate conditions at the Site that may present a

threat to the public health or welfare, or the environment in derogation of applicable laws and rules which Ohio EPA has the authority to enforce; and/or,

- (e) Bring any legal or equitable action against any appropriate person other than Defendants for any violation of applicable laws. For the purposes of this Consent Order, and in particular the provisions of this paragraph, the term “person” includes: an individual, corporation, business trust, estate, trust, partnership, association, municipal corporation, interstate body created by compact, and other officers, agents, employees, attorneys, and/or those in active concert or participation with any of them.

V. INJUNCTION, CIVIL PENALTIES AND COMPLIANCE

5. Defendants are permanently ENJOINED and ORDERED to comply immediately with all applicable provisions of R.C. Chapters 3734 and 3714 and the rules promulgated under these Chapters, except as otherwise provided in this Consent Order.

6. Defendant D.J. Ashworth, Inc. is hereby found to be Donald Ashworth (doing business as D.J. Ashworth, Inc.). As such, D.J. Ashworth, Inc. is ENJOINED by the same permanent injunctive order, and thereby ORDERED to perform the same permanent injunctive relief as provided in this Court’s June 8, 2011 Judgment Entry (Attachment 1) and as amended by the Fourth Appellate District Court’s November 29, 2012 Decision and Final Judgment Entry (Attachment 2), relative to Site 2 only. Further, D.J. Ashworth, Inc. shall be JOINTLY AND SEVERALLY LIABLE for the same civil penalties as Donald Ashworth relative to Site 2 only.

7. Defendant Dreama Ashworth is ENJOINED by the permanent injunctive relief and ORDERED to perform the permanent injunctive relief pertaining to Site 0 and Site 1, as provided in this Court’s June 8, 2011 Judgement Entry. Dreama Ashworth shall not be liable for any civil penalties associated with the allegation in the State’s Complaint.

8. Prior to engaging in construction activity on the Site, Defendants are ordered to obtain all necessary federal and state permits.

VI. MISCELLANEOUS

9. Nothing in this Consent Order shall affect Defendants' obligation to comply with all applicable federal, state or local laws, regulations, rules or ordinances.

10. Any acceptance by the State of Ohio of any payment, document or other work due hereunder subsequent to the time that the obligation is due under this Consent Order shall not relieve Defendants from the obligations created by this Consent Order.

11. Defendants shall inform the Ohio EPA of any change or cessation of the business that is the subject of this action.

VII. COSTS

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

VIII. CONTINUING JURISDICTION

13. This Court shall retain jurisdiction over this action for the purpose of enforcing and administering Defendants' compliance with this Consent Order.

IX. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK

14. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it in the court's journal. Within three days of entering the judgment in the journal, the clerk is hereby directed to serve upon the parties a notice of the judgment and the date of its journal entry 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.

**JUDGE D. SCOTT BOWLING
COURT OF COMMON PLEAS
LAWRENCE COUNTY**

DATE

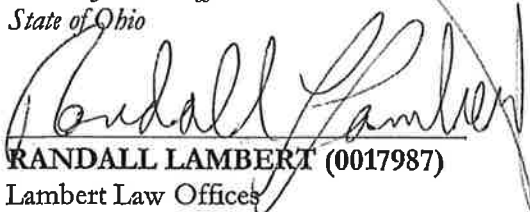
APPROVED BY:

MICHAEL DEWINE
OHIO ATTORNEY GENERAL



ROBERT EUBANKS (0073386)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
Robert.Eubanks@OhioAttorneyGeneral.gov

Counsel for Plaintiff
State of Ohio



RANDALL LAMBERT (0017987)

Lambert Law Offices
215 South Fourth Street
Lambert Bldg., P. O. Box 725
Ironton, OH 45638-0702

Counsel for Defendants
D.J. Ashworth, Inc. and Dreama Ashworth