

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO *ex rel.*
NANCY H. ROGERS,
ATTORNEY GENERAL OF OHIO, et al.,

Plaintiffs,

v.

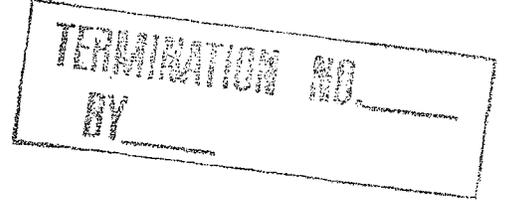
Cenci Enterprises, Inc., et al.

Defendants.

CASE NO. 07 CVH-07-9067

JUDGE Cain

FINAL APPEALABLE ORDER



**ORDER GRANTING DEFAULT JUDGMENT AGAINST DEFENDANTS CENCI
ENTERPRISES, INC. AND NICHOLAS A. CENCI**

This matter is before the Court on the Motion of Plaintiffs State of Ohio, ex rel. Nancy H. Rogers, Attorney General of Ohio ("State of Ohio") and Petroleum Underground Storage Tank Release Compensation Board ("Petroleum Board") (collectively as to the State of Ohio and the Petroleum Board, the "Plaintiffs"), pursuant to Ohio Rule of Civil Procedure 55(A) for an Order granting it default judgment against Defendants Cenci Enterprises, Inc. ("CEI") and Nicholas A. Cenci ("Cenci") (collectively as to CEI and Cenci, "Defendants"). The Court having determined that the motion should be granted, IT IS THE ORDER OF THIS COURT that judgment by default be entered against Defendants, Cenci Enterprises, Inc. and Nicholas A. Cenci. IT IS FURTHER ORDERED THAT:

A. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined to conduct a Tier 1 Evaluation and submit a complete and approvable Tier 1 Evaluation Report to the State Fire Marshal, in accordance with the requirements of Ohio Admin. Code 1301:7-9-

13(L), for the three underground storage tanks (“USTs”) for which the previous Tier 2 Evaluation Report was found deficient.

B. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined to conduct a Tier 2 Evaluation and submit a complete and approvable Tier 2 Evaluation Report to the State Fire Marshal, if the Bureau of Underground Storage Tank Regulation (“BUSTR”) Rules so require based upon the results of the Tier 1 Report referenced in the preceding paragraph.

C. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined, for all USTs remaining on the Site that have been out-of-service for more than twelve months, to permanently remove, close-in-place, perform a change in service or immediately place back into service all USTs remaining on the Site that have been out-of-service for more than twelve months as required by Ohio Admin. Code 1301:7-9-12(E)(4).

D. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined to conduct a closure assessment for all USTs located on the Site, out-of-service for more than twelve months, and to submit a closure report to the Fire Marshal as required by Ohio Admin. Code 1301:7-9-12(I) and (J).

E. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined to take the required response action if any free product is discovered in the course of closure assessment and/or corrective actions in accordance with Ohio Admin. Code 1301:7-9-13(G)(3).

F. Pursuant to R.C. §3737.882(C)(2), Defendants are ordered and enjoined to handle all petroleum contaminated soils generated from closure assessment and/or corrective actions undertaken with respect to the UST system in accordance to Ohio Admin. Code 1301:7-9-16.

G. Pursuant to R.C. §3737.91 and Ohio Admin. Code 3737-1-04 and 3737-1-041, Defendants Cenci Enterprises and Nicholas A. Cenci are ordered to pay to the director of the Petroleum Board the unpaid fees and penalties for program years 2000 through 2007 for the two USTs in the amount of \$24,000 as of November 27, 2007, plus any additional fees and penalties assessed in orders by the director of the Petroleum Board for subsequent program years and to comply with all other requirements set forth in R.C. 3737.91 and Ohio Admin. Code 3737-1-04 and 3737-1-041.

H. Defendants are permanently enjoined from violating R.C. Chapter 3737 and the rules promulgated and adopted thereunder, and any Orders issued by the State Fire Marshal, and pay all future fees and penalties, if any, to the Petroleum Board under R.C. 3737.91 and any of the rules promulgated thereunder and any Orders issued by the Petroleum Board.

I. Defendants and their agents, representatives, employees, successors, or assigns, under the names that they presently use or any other names they use through any corporate or other device, and those acting in concert and participation with the Defendants directly or indirectly, are permanently enjoined from engaging in the acts or practices of which Plaintiffs complain.

J. Defendants are hereby ordered to pay all the costs of this action, including Plaintiff State of Ohio's attorney fees and other extraordinary litigation costs regarding its representation of the State Fire Marshal, Bureau of Underground Storage Tank Regulations.

K. Defendants are ordered to pay all past due registration fees to BUSTR as required by Ohio Admin. Code 1301:7-9-04(B)(1) and R.C. §3737.882(C)(1).

L. This Court shall retain jurisdiction of this suit for the purpose of making any Order or Decree the Court may deem necessary at any time to enforce and administer Defendants' compliance with, and to carry out, this Court's judgment.

IT IS FURTHER ORDERED that in order to determine the appropriate civil penalty and Plaintiffs' attorney fees and other extraordinary litigation costs to be assessed against Defendants, Cenci Enterprises, Inc. and Nicholas A. Cenci and for a determination of the total fees and penalties due to the Petroleum Board, a hearing will be held on the 2 day of

Sept, 2008 at 9:00 A.M.

Judge David E. Cain