

IN THE FRANKLIN COUNTY MUNICIPAL COURT
ENVIRONMENTAL DIVISION
COLUMBUS, OHIO

STATE OF OHIO, ex rel.
JIM PETRO,
ATTORNEY GENERAL OF OHIO,

Plaintiff,

v.

COLUMBUS CELLO-POLY
CORPORATION,

Defendant.

Case No. 2002-EVH-060092

CONSENT ORDER AND
FINAL JUDGMENT

MICHAEL A. F. BROWN

2005 JUN 21 PM 3:22

FILED

Plaintiff State of Ohio, by its counsel, Attorney General Jim Petro, at the written request of the Director of the Ohio Environmental Protection Agency, having filed a Complaint seeking injunctive relief and civil penalties from Defendant Columbus Cello-Poly Corporation, for violations of Ohio Revised Code ("R.C.") Chapter 3704 and the rules promulgated thereunder, and the parties having consented to the entry of this Consent Order and Final Judgment ("Consent 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. JURISDICTION AND VENUE

1. 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.

II. PERSONS BOUND

2. 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.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Plaintiff alleges in its Complaint that Defendant has owned and operated Defendant's facility at 4041 Roberts Road, Columbus, Ohio, in such a manner as to result in violations of the air pollution control laws and regulations of the State of Ohio. Defendant's agreement to be bound by this Consent Order is not an admission of any type by Defendant. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendant to Plaintiff for the claims alleged in Plaintiff's Complaint.

4. This Consent Order shall not be construed to limit the authority of 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 Defendant for any violations which occur after the entry of this Consent Order. Nothing in this Consent Order shall be construed to relieve Defendant of its obligations to comply with applicable federal, state or local statutes, regulations, or ordinances. Defendant agrees that the Plaintiff may consolidate any alleged future violations of this Consent Order and any additional alleged violations not found in the Complaint into a single action either through charges in contempt or a new civil action. Defendant waives any right to challenge the State's

ability to present, and the Court's authority to hear, in a single action, charges in contempt of this Consent Order together with any other violations of Ohio environmental statutes or rules adopted there under. Defendant agrees that the Plaintiff's election of either charges in contempt or a new civil action does not limit or enhance the relief otherwise provided in law available to the Plaintiff. Defendant reserves all other defenses to such action.

IV. INJUNCTIVE RELIEF

5. Defendant is ordered and enjoined from "installing" or "modifying" any "air contaminant source," as those terms are defined by Ohio Adm. Code 3745-31-01(LL), (VV) and (D), at Defendant's facility without first applying for a Permit to Install ("PTI") from the Director in accordance with Ohio Adm. Code 3745-31-02 unless the source is exempted from the requirement to obtain a PTI under state law.

6. Defendant is ordered and enjoined from operating any air contaminant source at Defendant's facility without first complying with the requirements of Ohio Adm. Code Chapters 3745-31 and 3745-35, unless the source is exempted from the requirement to obtain a Permit to Operate ("PTO") under state law.

V. CIVIL PENALTY

7. Pursuant to R. C. 3704.06, Defendant shall pay to the State of Ohio a total of Two Hundred Forty-Three Thousand Five Hundred Dollars (\$243,500.00), which shall be paid as follows:

- (a) Within thirty (30) days of the entry of this Consent Order, Defendant shall deliver a certified check for Sixty Thousand Eight Hundred Seventy-Five Dollars (\$60,875.00), which constitutes one-fourth of the civil penalty, made

payable to the order of "Treasurer, State of Ohio," to the address stated in paragraph 7(e) of this Consent Order.

- (b) Within one hundred eighty (180) days of the entry of this Consent Order, Defendant shall deliver a certified check for Sixty Thousand Eight Hundred Seventy-Five Dollars (\$60,875.00), which constitutes one-fourth of the civil penalty, made payable to the order of "Treasurer, State of Ohio," to the address stated in paragraph 7(e) of this Consent Order.
- (c) Within three hundred sixty-five (365) days of the entry of this Consent Order, Defendant shall deliver a certified check for Sixty Thousand Eight Hundred Seventy-Five Dollars (\$60,875.00), which constitutes one-fourth of the civil penalty, made payable to the order of "Treasurer, State of Ohio," to the address stated in paragraph 7(e) of this Consent Order.
- (d) Within five hundred forty-five (545) days of the entry of this Consent Order, Defendant shall deliver a certified check for Sixty Thousand Eight Hundred Seventy-Five Dollars (\$60,875.00), which constitutes one-fourth of the civil penalty, made payable to the order of "Treasurer, State of Ohio," to the address stated in paragraph 7(e) of this Consent Order.
- (e) All certified checks shall be delivered to:

Amy Laws, Paralegal
Office of the Attorney General of Ohio
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3428

VI. STIPULATED PENALTIES

8. In the event that Defendant fails to comply with any of the requirements imposed by paragraphs 5 and 6 of this Consent Order, Defendant shall immediately be liable for and shall pay a stipulated penalty according to the following payment schedule. For each failure to meet a requirement, up to thirty days (30), Two Hundred Fifty Dollars (\$250.00) per day for each requirement not met. For each day of failure to meet a requirement from day thirty-one (31) to sixty (60), Five Hundred Dollars (\$500.00) per day for each requirement not met. For each day of failure to meet a requirement beyond sixty (60) days, Seven Hundred Fifty Dollars (\$750.00) per day for each requirement not met.

9. Payment of all stipulated penalties shall be made immediately upon the occurrence of the violation giving rise to the penalty and a certified check made payable to the order of "Treasurer, State of Ohio" shall be delivered to Plaintiff at the address stated in paragraph 7(e) of this Consent Order.

10. The imposition, payment, and collection of stipulated penalties for violations of this Consent Order shall not prevent the State of Ohio from pursuing additional remedies, civil, criminal or administrative, for future violations of applicable laws by Defendant. In the event the State of Ohio pursues a civil penalty in an action against Defendant for such future violations, any stipulated penalties paid by Defendant under this Consent Order shall be an offset to any civil penalty for the same violation awarded in any subsequent action.

VII. RETENTION OF JURISDICTION

11. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order.

VIII. COURT COSTS

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

IX. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

13. 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 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.

X. AUTHORITY TO ENTER INTO THE CONSENT ORDER

14. Each signatory for Defendant 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.

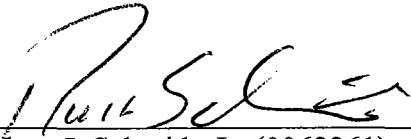
IT IS SO ORDERED

6/20/05
DATE

Harland H. Hale
HARLAND H. HALE
JUDGE, FRANKLIN COUNTY
MUNICIPAL COURT,
ENVIRONMENTAL DIVISION

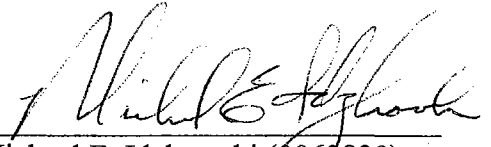
APPROVED BY:

**PORTER, WRIGHT, MORRIS &
ARTHUR, LLP**

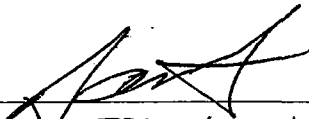


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Attorneys for Plaintiff State of Ohio



By:
Authorized Representative for
Columbus Cello-Poly Corporation