

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

**STATE OF OHIO, ex rel.
MICHAEL DEWINE
OHIO ATTORNEY GENERAL
30 East Broad Street, 25th Floor
Columbus, Ohio 43215,**

Plaintiff,

v.

**NEWKOR, INC.
c/o Gordon Barr, Statutory Agent
10410 Berea Road
Cleveland, Ohio 44102,**

and

**GORDON L. BARR
22480 Calverton Road
Shaker Heights, Ohio 44122,**

Defendants.

CASE NO.

JUDGE

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Defendants NewKor, Inc. and Gordon Barr operate a facility that adjoins residential neighborhoods on the West Side of Cleveland from which chemical odors are causing neighboring residents to experience throat irritation, choking and nausea. Further, Defendants have agreed to formal administrative orders to address the conditions at their facility, but have failed to comply with those orders. Therefore, Plaintiff, the State of Ohio, by and through its

Attorney General, Michael DeWine, (“Plaintiff” or “the State”) at the written request of the Director of Environmental Protection (“Director”) pursuant to R.C. 3704.06 and the laws against public nuisance, institutes this civil action seeking injunctive relief and civil penalties against NewKor, Inc. and Gordon Barr, for violations of Ohio’s air pollution control laws and for causing a public nuisance. Plaintiff alleges as follows:

GENERAL ALLEGATIONS

1. Defendant NewKor, Inc. (“NewKor”) is an Ohio corporation with a business address of 10410 Berea Road, Cleveland, Cuyahoga County, Ohio, and is presently licensed to transact business in the State of Ohio.

2. Defendant Gordon L. Barr (“Barr”) is an individual having a residential address of 22480 Calverton Road, Shaker Heights, Ohio 44122.

3. Barr by virtue of his position as owner and President of NewKor, alone, or in conjunction with others, caused, participated in, controlled, and/or ordered some of the violations of law alleged in this Complaint. In addition, or in the alternative, Barr 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. Barr is personally liable for those violations.

4. At all times relevant to this Complaint, and continuing to the present, NewKor has been the “owner” and/or “operator,” as those terms are defined in Ohio Adm.Code 3745-15-01(U) of a phenolic resin core operation “facility,” defined in Ohio Adm.Code 3745-15-01(Q) and 3745-31-01(OO), located at 10410 Berea Road, Cleveland, Cuyahoga County, Ohio (“the Facility”).

5. Cuyahoga County is currently in non-attainment of the National Ambient Air Quality Standards for PM-2.5, ozone, and in partial attainment for lead.

6. NewKor is a “person” as defined by R.C. 3704.01 and Ohio Adm.Code 3745-15-01 and 3745-31-01.

7. The Facility is a “source” of “air contaminants” as those terms are defined in Ohio Adm.Code 3745-15-01(X) and (C), respectively, and 3745-31-01(H).

8. At the Facility, NewKor produces paper tubes (or cores) of two types: plain paper cores and impregnated phenolic resin cores.

9. The process to make phenolic resin cores consists of two primary stages: (i) dipping and air drying; and (ii) oven drying and baking, both of which involve separate emissions units (“EUs”).

10. In the first stage, cores are dipped into two tanks of phenol-formaldehyde-methanol resin and acetone solution. The cores are impregnated with the phenolic resin solution in the dipping room and then allowed to air dry for a period of 48 hours in the drying room. The dipping tanks and drying room combined qualify as a separate emissions unit, which is referred to as emissions unit (“EU”) P004.

11. The dipping and drying rooms are each vented directly to the ambient air by large fans pushing the air through wall and ceiling vents, respectively. Uncontrolled emissions from these vents contribute to strong odors emanating from the Facility.

12. The second stage of the NewKor’s operation involves the use of natural gas-fired baking ovens designed to dry and cure the phenolic resin cores. Each oven processes three batches of cores per day. Each batch stays in the oven for approximately four hours and contains

a maximum of 966 cores. The two baking ovens are two separate EUs, which are referred to as EUs P001 and P003.

13. Emissions from the baking ovens are exhausted to the ambient air through a stack.

14. Emission Units P001, P003, and P004 are “source[s]” of “air contaminants,” or “air contaminant sources,” as those terms are defined in Ohio Adm.Code 3745-15-01(C) and (X), 3745-31-01(I), and former Ohio Adm.Code 3745-35-01(B)(4).

15. Emissions Units P001, P003, and P004 emit “volatile organic compounds” (“VOCs”) as defined in Ohio Adm.Code 3745-21-01(B)(16), including methanol, phenol, and formaldehyde, which are “hazardous air pollutants” (“HAPs”) as defined in Ohio Adm.Code 3745-31-01(WW) and 3745-77-01(W).

16. Without restricting operations, NewKor’s Facility emits, or has the “potential to emit,” as defined in Ohio Adm.Code 3745-77-01(CC), at least 100 tons per year of any air pollutant, and/or at least 10 tons per year of one type of HAP, and/or at least 25 tons per year of any combination of HAPs. Specifically, NewKor emits over 100 tons annually of volatile organic compounds and over 25 tons annually of the HAP methanol.

17. The Facility qualifies as a “major source,” as defined in Ohio Adm.Code 3745-77-01(X), and a “Title V source,” as that term is defined in Ohio Adm.Code 3745-77-01(PP), of VOCs and HAPs.

18. To avoid Title V permitting requirements, the Facility must implement federally enforceable material usage limitations that will keep its potential to emit below Title V thresholds as provided by Ohio Adm.Code 3745-31-05(D)(1).

19. NewKor's Facility is subject to the permitting requirements of Ohio Adm.Code Chapters 3745-31 and 3745-77 and fee emission reporting requirements of Ohio Adm.Code Chapter 3745-78.

20. While under previous ownership, NewKor was issued three permits to operate ("PTOs") for EUs P001, P003, and P004 on December 22, 1989. Each of the three PTOs expired on December 22, 1992.

21. NewKor has continuously operated air contaminant sources without a permit to operate since its current owners purchased the company in 1999 through the present.

22. The Cleveland Division of Air Quality ("CDAQ") is the contractual agent for the Ohio Environmental Protection Agency ("Ohio EPA") responsible for administering air pollution laws and rules in Cuyahoga County, Ohio.

23. Beginning on or about July 29, 2008, and continuing to the present, CDAQ and/or Ohio EPA have received numerous complaints regarding odors emanating from the Facility. As a result, CDAQ has conducted numerous investigations and inspections of the Facility.

24. Revised Code 3704.05(A) states, in part, that no person shall cause, permit, or allow emission of an air contaminant in violation of any rule adopted by the Director.

25. Revised Code 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.

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

27. The allegations contained in the preceding paragraphs and the following Counts are incorporated into each claim for relief in this Complaint as if fully rewritten therein.

28. 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).

COUNT ONE
OPERATING AN AIR CONTAMINANT SOURCE WITHOUT OBTAINING A TITLE V PERMIT

29. Ohio Adm.Code 3745-77-02(A) states that the owner or operator of a Title V source shall not operate such source except in compliance with a permit issued under Chapter 3745-77.

30. From at least the time NewKor came under current ownership in 1999 and continuing to the present, NewKor failed to obtain a Title V permit for EUs P001, P003, and P004.

31. The act or omission alleged in this Count constitute a violation of Ohio Adm.Code 3745-77-02, and R.C. 3704.05(A) and 3704.05(G), for which NewKor is subject to injunctive relief pursuant to R.C. 3704.06(B), and for which NewKor is liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C), including each day of violation subsequent to the filing of this Complaint.

COUNT TWO
OPERATING AN AIR CONTAMINANT SOURCE WITHOUT OBTAINING A PERMIT TO OPERATE, OR PERMIT TO INSTALL AND OPERATE

32. Former Ohio Adm.Code 3745-35-02, which was effective prior to June 30, 2008, prohibited any person from operating an air contaminant source without applying for and obtaining a permit to operate.

33. For air contaminant sources not subject to Ohio Adm.Code Chapter 3745-77 and in operation on and after June 30, 2008, Ohio Adm.Code 3745-31-02(A)(1)(c) prohibits any person from operating such an air contaminant source without first obtaining authority to operate through issuance of a permit to install and operate.

34. From at least the time NewKor came under current ownership in 1999 and continuing to the present, NewKor failed to obtain a permit to operate, or a permit to install and operate, for EUs P001, P003, and P004.

35. The acts or omissions alleged in this Count constitute violations of Ohio Adm.Code 3745-35-02 (prior to June 30, 2008) and 3745-31-02 (from June 30, 2008 to the present), and R.C. 3704.05(A) and 3704.05(G), for which NewKor is subject to injunctive relief pursuant to R.C. 3704.06(B), and for which NewKor is liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C), including each day of violation subsequent to the filing of this Complaint.

COUNT THREE
FAILURE TO TIMELY COMPLY WITH DIRECTOR'S FINAL FINDINGS AND
ORDERS TO SUBMIT A PERMIT APPLICATION

36. On December 2, 2010, the Director journalized Director's Final Findings and Orders for the permit and nuisance violations at the Facility to which NewKor agreed, pursuant to the authority vested by R.C. 3704.03 and 3745.01. A true and accurate copy of the Director's Final Findings and Orders is attached as Exhibit A and is incorporated by reference.

37. The Director's Final Findings and Orders required NewKor to submit a Title V permit application or a synthetic minor permit application by March 2, 2011, which was 90 days after the effective date of the Director's Final Findings and Orders.

38. From March 3, 2011 to August 1, 2011, when NewKor submitted a complete synthetic minor permit application, NewKor failed to comply with the Director's Final Findings and Orders.

39. The acts or omissions alleged in this Count constitutes a violation of R.C. 3704.05(G), for which NewKor is subject to injunctive relief pursuant to R.C. 3704.06(B), and for which NewKor is liable to pay a civil penalty 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 COMPLY WITH DIRECTOR'S FINAL FINDINGS AND ORDERS TO
SUBMIT A PRESCRIBED ENGINEERING REPORT

40. The Director's Final Findings and Orders also required NewKor to complete and submit to Ohio EPA and CDAQ a detailed engineering study in order to determine the technical and economic feasibility of reducing VOC emissions from the sources at the facility by May 31, 2011.

41. NewKor submitted a report that failed to comply with the Director's Final Findings and Orders on July 7, 2011.

42. NewKor's report failed to comply with the Director's Final Findings and Orders because it failed to include the details specified in the Director's Final Findings and Orders to which NewKor had agreed.

43. To date, NewKor has failed to provide CDAQ and/or Ohio EPA with a complete engineering report as required.

44. The acts or omissions alleged in this Count constitutes a violation of R.C. 3704.05(G), for which NewKor is subject to injunctive relief pursuant to R.C. 3704.06(B), and

for which NewKor is liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C), including each day of violation subsequent to the filing of the Complaint.

COUNT FIVE
FAILURE TO COMPLY WITH DIRECTOR'S FINAL FINDINGS AND ORDERS
TO SUBMIT TITLE V FEE EMISSIONS REPORTS

45. The Director's Final Findings and Orders required NewKor to submit Title V fee emission reports for calendar years 1999-2010 by April 1, 2011.

46. To date, NewKor has not submitted the prescribed Title V fee emission reports.

47. The omission alleged in this Count constitutes a violation of R.C. 3704.05(G), for which NewKor is subject to injunctive relief pursuant to R.C. 3704.06(B), and for which NewKor is liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C).

COUNT SIX
FAILURE TO SUBMIT TITLE V FEE EMISSION REPORTS

48. Ohio Adm.Code 3745-78-02(A) requires, in part, that owners or operators of sources subject to the Title V permit program, submit a Title V fee emission report to Ohio EPA every year. The report quantifies the actual emission data for particulate matter, sulfur dioxide, organic compounds, nitrogen oxides, and lead. The report is due by April 15th each year.

49. To date, NewKor has not submitted the Title V fee emission reports.

50. The omissions alleged in this Count constitute violations of Ohio Adm.Code 3745-78-02(A) and R.C. 3704.05(G), for which NewKor is subject to injunctive relief pursuant

to R.C. 3704.06(B), and for which NewKor is liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C), including each day of violation subsequent to the filing of this Complaint.

COUNT SEVEN
FAILURE TO COMPLY WITH EMISSIONS LIMITATIONS

51. Former Ohio Adm.Code 3745-21-07(G)(2), in effect from June 15, 1999 to February 18, 2008, required that organic compound emissions from the dipping and drying rooms in EU P004 not exceed eight pounds per hour and forty pounds per day, unless the discharge is reduced by 85%.

52. Former Ohio Adm.Code 3745-21-07(G)(1), in effect from June 15, 1999 to February 18, 2008, required that organic compound emissions from the ovens in EUs P001 and P003 not exceed three pounds per hour and fifteen pounds per day, unless the discharge is reduced by 85%.

53. Beginning February 18, 2008 to the present, Ohio Adm.Code 3745-21-07(M)(4) requires that volatile organic compound emissions from the ovens in EUs P001 and P003 not exceed three pounds per hour and fifteen pounds per day, unless the discharge is reduced by 85% by weight.

54. From its purchase in 1999 through February 18, 2008, NewKor emitted more than three pounds per hour and fifteen pounds per day of organic compound emissions from EUs P001 and P003 and did not reduce the discharge by 85%.

55. From its purchase in 1999 through February 18, 2008, NewKor emitted more than eight pounds per hour and forty pounds per day of organic compound emissions from EU P004 and did not reduce the discharge by 85%.

56. Beginning February 18, 2008 to present, NewKor emitted more than three pounds per hour and fifteen pounds per day of volatile organic compound emissions from EUs P001 and P003 and did not reduce the discharge by 85% by weight.

57. The acts alleged in this Count constitute violations of former Ohio Adm.Code 3745-21-07(G)(1), former Ohio Adm.Code 3745-21-07(G)(2), Ohio Adm.Code 3745-21-07(M)(4), and R.C. 3704.05(A), for which the State is entitled to injunctive relief, and for which NewKor is subject to 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), including each day of violation subsequent to the filing of this Complaint.

COUNT EIGHT AIR POLLUTION NUISANCE

58. Ohio Adm.Code 3745-15-07 states, in part, that it shall be unlawful for any person to cause, permit, or maintain a public nuisance. The rule declares the emission or escape into the open air from any source or sources whatsoever of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, a public nuisance.

59. Periodically, from at least July 29, 2008 and continuing to the present, NewKor's operations at the Facility have caused the emission or escape into the open air of smoke, ashes,

dust, dirt, grime, acids, fumes, gases, vapors, odors, or other substances that have endangered the health, safety or welfare of the public and/or caused unreasonable injury or impacts on the neighboring residents. As documented by written and oral complaints, these emissions have induced throat irritation, nausea, and choking in neighboring residents.

60. Defendant Barr has been repeatedly notified of the complaints and the existence of the public nuisance and has permitted its continuance through his control of NewKor's operations.

61. The acts or omissions alleged in this Count constitute violations of Ohio Adm.Code 3745-15-07 and R.C. 3704.05(A) and 3704.05(G), for which NewKor and Barr are each subject to injunctive relief pursuant to R.C. 3704.06(B), and for which NewKor and Barr are each liable to pay a civil penalty of up to twenty-five thousand dollars (\$25,000.00) for each day of each violation pursuant to R.C. 3704.06(C).

COUNT NINE COMMON LAW NUISANCE

62. Periodically, from at least July 29, 2008 and continuing to the present, NewKor has engaged in the release of noxious odors from its Facility which interfere with the rights of the public, thereby constituting an unreasonable use of property to the detriment of the public.

63. By and through NewKor's conduct as described in this Count, namely the improper release of noxious odors from the Facility, NewKor and Barr have significantly interfered with the public health, the public peace, the public comfort, and/or the public convenience of neighboring businesses and residents. Such conduct constitutes a common law public nuisance.

64. Because of communications with CDAQ and/or Ohio EPA, NewKor and Barr knew or had reason to know that the acts alleged in this Count have constituted such a threat and are a significant interference with the rights of the public. By reason of Defendants' continuing nuisance, the State has suffered and continues to suffer damages that are irreparable and cannot be compensated by law. NewKor and Barr are responsible for abating this nuisance.

65. As a result of NewKor and Barr's activities described in this Count, the State, including CDAQ, has incurred costs, including but not limited to, the costs of personnel time for investigating and inspecting the Facility and the costs of bringing this action.

66. NewKor and Barr are each liable to the State for compensatory damages, including, but not limited to, the costs of personnel time for investigating and inspecting the nuisance caused by NewKor and Barr and the costs of bringing this action, including reasonable attorney fees.

COUNT TEN STATUTORY NUISANCE

67. Revised Code 3767.13(A) prohibits using or maintaining a building or structure for the exercise of a trade, employment, or business which by "occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public."

68. Revised Code 3767.02 provides that "any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is

employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance.”

69. Pursuant to R.C. 3767.03, the Attorney General may bring an action in equity to abate a nuisance and perpetually enjoin persons from maintaining the nuisance.

70. Periodically, from at least July 29, 2008 and continuing to the present, NewKor and Barr have used, occupied, established, conducted, and/or controlled a nuisance by using or maintaining a building or structure for the exercise of a trade, employment, or business which by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public.

71. The conduct described in this Count constitutes maintaining a nuisance for which Plaintiff is entitled, pursuant to R.C. 3767.03 and 3767.05(D), to a perpetual injunction against each Defendant from maintaining the nuisance and an order to abate such nuisance. Plaintiff is further entitled, pursuant to R.C. 3767.06(A), to an order directing the removal and sale of all personal property and contents located at the Facility used in conducting and maintaining such nuisance.

PRAYER FOR RELIEF

THEREFORE, the State respectfully requests that this Court:

A. Preliminarily and permanently enjoin Defendants NewKor, Inc. and Barr to comply with R.C. Chapter 3704 and rules adopted thereunder, including but not limited to:

- 1) Order NewKor to submit accurate and complete Title V fee emissions reports for calendar years 1999 to the present;

- 2) Order NewKor to pay Title V emissions fees for calendar years 1999 through the present;
- 3) Order NewKor to comply with the three pounds per hour and fifteen pounds per day emission limitations as specified in Ohio Adm.Code 3745-21-07(M)(4) for EUs P001 and P003, or reduce emissions by 85% by weight through the employment of add-on pollution control equipment;
- 4) Order NewKor to submit an engineering report on the technical and economic feasibility of reducing VOC emissions at the Facility that meets the requirements outlined in the Director's Final Findings and Orders; and,
- 5) Order NewKor and Barr to each abate any nuisance by means as ordered by the Director, including but not limited to ceasing the operations of EUs P001, P003, and P004 in a manner that causes an odor nuisance, so as to demonstrate compliance with Ohio Adm.Code 3745-15-07;

B. Preliminarily and permanently enjoin Defendants NewKor, Inc. and Barr from maintaining a nuisance and order Defendants to abate the nuisance, order the removal and sale of all personal property and contents located at the Facility used in conducting and maintaining the nuisance;

C. Order NewKor and Barr, pursuant to R.C. 3704.06, to each pay civil penalties for the violations set forth in the amount of Twenty-Five Thousand Dollars (\$25,000.00) per day for each day of each violation, including each day of each violation occurring after the filing of this Complaint;

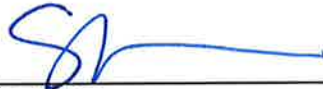
D. Order NewKor and Barr to pay all costs and fees for this action, including attorney fees assessed by the Office of the Ohio Attorney General;

E. 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,

F. Grant such other relief as may be just.

Respectfully submitted,

MICHAEL DEWINE
OHIO ATTORNEY GENERAL



SARAH BLOOM ANDERSON (0082817)

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Attorneys for Plaintiff, State of Ohio

EXHIBIT A

Environmental
Protection Agency

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

DEC 02 2010

Certified Mail

Mr. Gordon L. Barr
President
NewKor, Inc.
10410 Berea Road
Cleveland, Ohio 44102

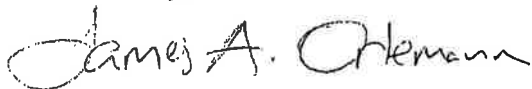
Re: Final Findings and Orders for
Violations of Ohio's Air Regulations
for NewKor, Inc.

Dear Mr. Barr:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date stamped on the first page of the Orders.

Sincerely,



James A. Orlemann, P.E.
Assistant Chief
SIP Development & Enforcement Section

JAO/jp

Enclosure

xc: Carol Hester, PIC
Steve Feldmann, Legal Office
Priscilla Roberson, DAPC
John Paulian, DAPC
George Baker, CDAQ
Valerie Shaffer, CDAQ

OHIO E.P.A.

DEC -2 2010

BEFORE THE

ENTERED DIRECTOR'S JOURNAL

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

NewKor, Inc.
10410 Berea Road
Cleveland, Ohio 44102

Director's Final Findings
and Orders

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to NewKor, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and heirs and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a manufacturing facility ("facility") located at 10410 Berea Road in Cleveland, which is identified by Ohio EPA facility identification number 1318005362. The facility was purchased by the current owner during November, 1999.

2. At the facility, Respondent operates numerous pieces of equipment for the production of paper roller tubes used in military launching tubes, paint roller tubes, tape cores, and paper mailing machines. Among the equipment are various emissions units that emit methanol, phenol, and formaldehyde. These emissions units are each an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (X), and emit volatile organic compounds ("VOCs") as defined in OAC Rule 3745-21-01(B)(14), including methanol, phenol, and formaldehyde, which are "hazardous air pollutants" as defined in OAC Rule 3745-77-01(V).

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

Don Lasser Date: 12-2-10

3. A permit to operate ("PTO") was issued for emissions unit P001 (bake oven) on October 10, 1986. The PTO expired on October 10, 1989. An acceptable renewal application was not submitted to Ohio EPA, in violation of OAC Rule 3745-35-02.

4. PTOs for emissions units P003 (bake oven) and P004 (dip tanks) were issued on December 22, 1989. The PTOs expired on December 22, 1992. Acceptable renewal applications were not been submitted to Ohio EPA, in violation of OAC Rule 3745-35-02.

5. Emissions units P001 and P003 (bake ovens) are subject to former OAC Rule 3745-21-07(G)(1) and currently effective OAC Rule 3745-21-07(M)(4). The current compliance status of emissions units P001 and P003 is unknown.

6. Ohio EPA and the Cleveland Division of Air Quality ("CDAQ") have determined that Respondent's facility is a "major source" of VOCs and hazardous air pollutants, on both an actual and potential-to-emit basis, as defined in OAC Rule 3745-77-01(W). Based on records reviewed by CDAQ, the facility has been a major source of VOCs and hazardous air pollutants prior to and at all times since the current owner took ownership of the facility in 1999. As a major source, Respondent is subject to the Title V permitting requirements (OAC Chapter 3745-77) and has failed to submit a timely Title V permit application and pay the associated Title V permit fees, in violation of OAC Rules 3745-77-03(A), 3745-77-02(A), and 3745-78-02(A), and ORC Sections 3704.05 (J) and (K).

7. OAC Rule 3745-15-07 states that it is unlawful for any person to cause, permit, or maintain a public nuisance.

8. Since July 29, 2008, CDAQ has received and responded to at least 10 odor complaints from residents in the vicinity of Respondent's property. During the complaint investigations, CDAQ determined that the source of the odors is Respondent's facility. Because of the high level of uncontrolled emissions from Respondent's facility and the number of odor complaints, the odors are creating a nuisance, in violation of OAC rule 3745-15-07.

9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within ninety (90) days of the effective date of these Orders, Respondent shall have emission tests conducted for emissions units P001 and P003 (bake ovens) in accordance with the test methods specified in OAC Rule 3745-21-07(A)(6) to demonstrate compliance with OAC Rule 3745-21-07(M)(4). Thirty (30) days prior to the tests, Respondent shall submit a complete Intent to Test form to CDAQ at the address given in Order 6. Within thirty (30) days after completion of the tests, Respondent shall submit the compliance test report to Ohio EPA and CDAQ at the addresses given in Order 6.

2. Within ninety (90) days of the effective date of these Orders, Respondent shall prepare an estimate of all emissions from production operations at its facility prior to the bake ovens and submit this estimate, along with supporting documentation, to Ohio EPA and CDAQ at the addresses given in Order 6. This estimate shall include, but not be limited to, daily emissions during normal production operations from the drying room and dip tank.

3. Within ninety (90) days of the effective date of these Orders, Respondent shall submit a Title V or synthetic minor permit application covering all emissions units at the facility. (Please be advised that since June 30, 2008, major sources must submit permit applications using Air Services. Hard copy forms are no longer acceptable. Air Services is part of Ohio EPA's new eBusiness Center, which is available at <http://ebiz.epa.ohio.gov>.)

4. Within one hundred and twenty (120) days of the effective date of these Orders, Respondent shall submit the Title V fee emission reports, using Air Services, for calendar years 1999 through 2010. Please contact Elisa Thomas at (614) 644-3621 for assistance.

5. Within one hundred and eighty (180) days of the effective date of these Orders, Respondent shall complete a detailed engineering study that determines the technical and economic feasibility of reducing the VOC emissions from the sources at the facility and submit the results to Ohio EPA and CDAQ at the addresses provided in Order 6. The engineering study shall be performed by an engineering consulting firm experienced in the field of air pollution control and shall be completed in accordance with the following instructions:

- a. Prepare a comprehensive and accurate emission inventory for all the sources of VOCs at the facility. The emission inventory shall include the following information for each source of VOC emissions:
 - i. a description of the source of emissions;

- ii. the emissions unit from which the emissions emanate (e.g., P001);
 - iii. whether the emissions are stack and/or fugitive;
 - iv. the maximum hourly uncontrolled and controlled VOC emission rates at the maximum production capacity, and the duration of those emissions over a 24-hour production period;
 - v. the basis for the uncontrolled and controlled VOC emission rates (e.g., material balance calculations, emission tests, or emission factors);
 - vi. the calculations for the uncontrolled and controlled VOC emission rates;
 - vii. the type of control equipment or control measure currently employed, and the name of each control equipment manufacturer;
 - viii. the control efficiency for each piece of control equipment and each control measure currently employed;
 - ix. for fugitive emissions, the release height of the emissions (in feet above ground level);
 - x. for stack emissions, the height of the stack (in feet above ground level), the diameter of the stack at the top of the stack (in feet), the temperature of the exhaust gases (in degrees F), and the flow rate of the exhaust gases (in acfm and scfm);
 - xi. the dimensions of all nearby buildings (height, width, and length, in feet [see Ohio EPA, DAPC, Engineering Guide 69]); and
 - xii. the UTM coordinates for the point(s) at which the emissions are vented into the ambient air.
- b. Identify and describe all the technically feasible VOC control measures (including, if applicable, conversion to low VOC-content coatings) for each source of VOC emissions (stack and fugitive) identified pursuant to Order 5a.
- c. For each of the technically feasible VOC control measures identified pursuant to Order 5b, determine and report the following:

- i. the total installed capital cost;
- ii. the annual operating and maintenance costs;
- iii. the total annual cost, including the annualized capital cost;
- iv. the annual reductions in VOC emissions that would occur, in tons; and
- v. the cost-effectiveness, in dollars per ton per year of VOC removed.

Respondent may use the guidance in Ohio EPA, Division of Air Pollution Control's Engineering Guide #46 in calculating the cost-effectiveness for each technically feasible VOC control measure for each source of VOC emissions.

- d. For each technically feasible VOC control measure identified pursuant to Order 5b, estimate the amount of time that would be required to expeditiously implement the control measure and provide an explanation of the basis for the time estimate.

6. All documents required by these Orders to be submitted to Ohio EPA shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street
Suite 700
P.O. Box 1049
Columbus, OH 43216 - 1049

All documents required by these Orders to be submitted to the Cleveland Division of Air Quality shall be sent to the following address:

Cleveland Department of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
Attn: George P. Baker

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative as that term is defined in the above-referenced rule.

VII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

IX. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

ORDERED:

Ohio Environmental Protection Agency


Chris Korleski
Director

11/24/10
Date

AGREED:

NewKor, Inc.


Signature

11-19-10
Date

GORDON L. BARR
Printed or Typed Name