

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, *ex rel.*  
MICHAEL DEWINE  
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

TWK LTD., *et al.*,

Defendants.

CASE NO. 845889

JUDGE Donnelly

CONSENT ORDER

The State of Ohio, by its Attorney General ("Plaintiff"/"the State") and at the written request of the Director of the Ohio Environmental Protection Agency ("the Director"), has filed a Complaint seeking injunctive relief and civil penalties against Defendants TWK Ltd. and Ali Faraj for violations of R.C. Chapter 3704 and the rules adopted thereunder. The Parties have consented to the entry of this Order.

Therefore, without trial, admission, or determination of any issue of fact or law and with the consent of the Parties hereto, it is ORDERED:

I. DEFINITIONS

1. As used in this Order, the following terms are defined :
  - a. "Defendants" means TWK Ltd. and Ali Faraj.
  - b. "Director" means the Director of the Ohio Environmental Protection Agency ("Ohio EPA") or his designee.

- c. "Parties" means Plaintiff, the State of Ohio, and Defendants, TWK Ltd. and Ali Faraj.
- d. "Site" means Defendants' property at 4322 Clark Avenue, Cleveland, Cuyahoga County, Ohio.
- e. "Order" means this Consent Order.
- f. "Written" means either a hard copy (i.e., on paper) or saved or stored in an electronic format.

## **II. JURISDICTION AND VENUE**

2. The Court has jurisdiction over the Parties and the subject matter of this action under R.C. Chapter 3704. The Complaint states a claim upon which relief can be granted. Venue is proper in this Court. Defendants shall not challenge the Court's jurisdiction to enter or enforce this Consent Order.

## **III. PARTIES BOUND**

3. Defendant TWK Ltd. is an Ohio limited liability company with its principal place of business at 2410 Glen Valley, Westlake, Ohio 44145.

4. Defendant Ali Faraj is an individual with a business address of 4322 Clark Avenue, Cleveland, Ohio 44109.

5. This Order shall apply to and be binding only upon Defendants, and, to the extent consistent with Civ. R. 65(D), their agents, officers, employees, contractors, assigns, successors in interest, and those persons acting in concert, privity, or participation with Defendants who receive actual or constructive notice of this Order whether by personal service, by public record filed in the county land record, or otherwise. Defendants shall provide a copy of this Consent

Order to any successor in interest and each key employee, consultant or contractor employed to perform work referenced or operate the Site.

6. Each signatory represents and warrants s/he has been duly authorized to sign this document and is fully authorized to agree to its terms and conditions and, in the case of a person signing on behalf of a corporate entity, may so legally bind the corporate entity to all terms and conditions in this document. This Consent Order is in settlement and compromise of disputed claims and nothing in this Consent Order is to be construed as an admission of any facts or liability.

7. If insolvency occurs, bankruptcy, or other failure, Defendants must immediately pay any remaining amount as set forth by this Consent Order.

#### **IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

8. The Plaintiff alleges that Defendants are responsible for violations of the air pollution control laws of the State of Ohio under R.C. Chapter 3704. Compliance with this Consent Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiff for the claims alleged in Plaintiff's Complaint up to the Court's entry of this Consent Order.

9. Nothing in this Consent Order, including the imposition of stipulated civil penalties for violations of this Consent Order, shall limit the authority of the State of Ohio to:

- a. Seek any legal or equitable relief or civil penalties from Defendants or any other appropriate person for claims or conditions that occur or exist on the date of or after the entry of this Consent Order;
- b. Seek any legal or equitable relief or civil penalties from Defendants or any other appropriate person for claims or violations not alleged;

- c. Seek any legal or equitable relief or civil penalties from Defendants or any other appropriate person for claims or violations that occur after filing this case;
- d. Enforce this Consent Order through a contempt action or otherwise seek relief for violations of this Consent Order;
- e. Take any action authorized by law against any appropriate person, including Defendants, to eliminate or mitigate conditions at the Site that may threaten public health or welfare or the environment; and/or
- f. Bring any legal or equitable action against any appropriate person other than Defendants for any violation of applicable laws. For this Consent Order, and in particular 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.

10. This Consent Order does not waive, abridge, settle, compromise, or otherwise impact any other claims in law or equity that the State of Ohio and other entities, governmental or otherwise, may have against Defendants.

11. Except regarding the signatories to the Consent Order, nothing in this Consent Order shall constitute or be construed as satisfaction of civil liability, a covenant not to sue, and/or a release regarding the claims alleged, against any person, firm, trust, joint venture, partnership, corporation, association, or other entity not a signatory to this Consent Order for any liability such non-signatory(ies) may have arising out of matters alleged in the Complaint. Plaintiff also specifically reserves its right to sue any entity that is not a signatory to this Consent Order.

12. Nothing in this Consent Order shall relieve Defendants of their obligations to comply with applicable federal, state, or local statutes, regulations, rules, or ordinances.

13. Defendants shall not assert and/or maintain, any defense or claim of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting or other defenses based on any contention that Plaintiff's claims in any subsequent judicial or administrative proceeding were, could, or should have been brought.

14. Defendants agree that each is jointly and severally liable for the obligations and requirements in this Consent Order, including, but not limited to, everything in Sections V, VI, and VII.

#### V. PERMANENT INJUNCTION

15. Defendants are ordered and permanently enjoined to comply fully with the terms of R.C. Chapter 3704 and the rules thereunder, including, but not limited to, the provisions of Ohio Adm.Code 3745-21-09.

#### VI. CIVIL PENALTY

16. Under R.C. 3704.06, Defendants are ordered and enjoined to pay a civil penalty of \$7,000.00. Full payment shall be made within thirty (30) days of entering this Consent Order. Such payment shall be made by delivering to Scott Hainer, Paralegal, or his successor, Office of the Attorney General, 30 E. Broad St., 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400, a certified check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio."

17. If full payment is not paid as required in Paragraph 16 above, the remaining unpaid balance of the total civil penalty, plus applicable interest per R.C. 131.02(D), shall become immediately due and owing. Any delinquent payments shall accrue interest at the maximum statutory rate under R.C. 5703.47 calculated from the Effective date.

18. The State reserves the right to file a certificate of judgment lien against Defendants for the remaining unpaid balance of the total civil penalty, plus applicable interest in R.C. 131.02(D), if the full payment is not paid according to the schedule in Paragraph 16 above. Defendants shall not be permitted to claim a force majeure as an excuse for any untimely payment of an amount other than that specified in Paragraph 16.

19. If either Defendant files a petition for bankruptcy, the State reserves the right to file a certificate of judgment lien against the other, non-filing Defendant, for the remaining unpaid balance of the total civil penalty, plus applicable interest in R.C. 131.02(D).

#### **VII. EFFECT OF CONSENT ORDER**

20. This Consent Order does not constitute authorization or approval of the construction, installation, modification, or operation of any physical structure, facilities, and or emission sources not previously approved by Ohio EPA. Approval for any such construction, installation, modification, or operation shall be by permit issued by Ohio EPA or other such permits as may be required by applicable federal, state, or local laws, rules or regulations.

#### **VIII. MISCELLANEOUS**

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

22. Any acceptance by the State of Ohio of any payment, document, or other work due 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.

23. Defendant Faraj shall inform the Ohio EPA of any change of his personal address and Defendant TWK, LTD. shall inform Ohio EPA of any change in Registered Agents' address

and business addresses or telephone numbers, or the cessation of the business that is the subject of this action.

#### **IX. RETENTION OF JURISDICTION**

24. This Court shall retain jurisdiction for the purpose of administering and enforcing this Consent Order.

#### **X. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK**

25. Under Rule 58 of the Ohio Rules of Civil Procedure, upon signing 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 Civ.R. 5(B) and note the service in the appearance docket. The failure of the clerk to serve notice does not affect the validity of this consent Order.

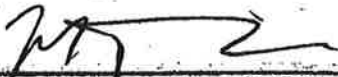
#### **XI. EFFECTIVE DATE**

26. This Consent Order shall be effective upon the date of its entry by the Court.

#### **XII. COURT COSTS**

27. Defendants are ordered to pay all court costs of this action.

IT IS SO ORDERED.

  
\_\_\_\_\_  
JUDGE


8/21/2015  
\_\_\_\_\_  
DATE


APPROVED:

TWK, LTD.

  
\_\_\_\_\_  
KENT MINSHALL  
2189 Professor Avenue  
Cleveland, OH 44113  
(216) 357-5900  
Counsel for Defendants

  
\_\_\_\_\_  
ALI FARAJ  
Authorized Representative of TWK Ltd.

  
\_\_\_\_\_  
ALI FARAJ  
(In his individual capacity)

  
\_\_\_\_\_  
ADREANNE STEPHENSON  
ELIZABETH R. EWING  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215  
(614) 466-2766  
Counsel for Plaintiff





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

STATE OF OHIO, EX REL. MICHAEL DEWINE  
Plaintiff

Case No: CV-15-845888

Judge: MICHAEL P DONNELLY

TWK LTD. AND ALI FARAJ, ET AL  
Defendant

**JOURNAL ENTRY**

96 DISP.OTHER - FINAL

CONSENT ORDER. OSJ.

COURT COST ASSESSED AS DIRECTED.

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER  
PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL  
PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

\_\_\_\_\_  
Judge Signature

OST

\_\_\_\_\_  
Date

CLERK OF COURTS  
CUYAHOGA COUNTY

2015 MAY 22 A 11:46

FILED