

THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

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

Plaintiff,

v.

TOTAL WASTE LOGISTICS LAS, LLC,
ET AL.,

Defendants.

: CASE NO. 9015 & 10203
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: JUDGE ANDREW D LOGAN
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PARTIAL CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff, State of Ohio, through its Attorney General, ("the State") filed a Complaint for Injunctive Relief and Civil Penalties against Defendants Total Waste Logistics LAS, LLC ("Defendant TWL") and Defendant Peter Hornick ("Defendant Hornick") for alleged violations of Ohio Revised Code ("R.C.") Chapter 3734, the rules promulgated thereunder;

The State and Defendant Hornick have consented to entry of this Consent Order;

THEREFORE, without trial, admission or determination of any issue of fact or law and upon consent of the Parties hereto, it is ADJUDGED, ORDERED, and DECREED as follows:

I. JURISDICTION AND VENUE

1. The Court has personal jurisdiction over the Parties and the subject matter of this action pursuant to Revised Code ("R.C.") Chapter 3734. Solely for purposes of this Consent Order and the underlying Complaint, Defendant Hornick does not contest that the Complaint states a claim

upon which relief can be granted against Defendant Hornick pursuant to R.C. Chapter 3734, and venue is proper in this Court for the purposes and duration of this Consent Order.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding only upon the State and Defendant Hornick, and, to the extent consistent with Civ.R. 65(D), Defendant Hornick's officers, agents, servants, employees, successors, and assigns, and those persons in active concert or participation with Defendant Hornick under the names that they presently use or any other names they use through any corporate or other devise who receive actual notice of this Consent Order whether by personal service or otherwise.

3. Defendant Hornick agrees and is hereby enjoined to provide actual notice of this Consent Order to its officers, agents, servants, employees, successors, and assigns, and those persons in active concert or participation with Defendant Hornick regarding any activity related to this Consent Order or the Complaint in this case.

III. CIVIL PENALTY

4. Defendant Hornick is enjoined and ordered to pay a total civil penalty of \$65,000.00 to the State of Ohio in accordance with the following schedule:

A. Within thirty (30) days of entry of this Consent Order, Defendant Hornick shall pay the State of Ohio thirty-two thousand, five hundred dollars (\$32,500.00).

B. Within one hundred and eighty (180) days of entry of this Consent Order, Defendant Hornick shall pay the State of Ohio thirty-two thousand, five hundred dollars (\$32,500.00).

If Defendant Hornick misses either of the payments in this Paragraph, the entire civil penalty shall immediately become due and owing without further demand by the State of Ohio. Payments pursuant to this Paragraph shall be made payable to the "Treasurer, State of Ohio," delivered to Scott Hainer, or his successor, Paralegal, Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215.

IV. STIPULATED PENALTIES

5. In the event Defendant Hornick fails to comply with paragraph 4 in this Consent Order, Defendant Hornick is liable for and shall on its own accord pay stipulated penalties without demand or notice by the State of Ohio in addition to the payments required by Section III in accordance with the following schedule for each failure to comply:

- a. For each day of each failure to comply up to and including the first thirty (30) days of each failure, two hundred dollars (\$200.00) per day.
- b. For each day of each failure to comply with a requirement or deadline of this Order for days thirty-one (31) through sixty (60) four hundred dollars (\$400.00) per day.
- c. For each day of each failure to comply for each day beyond sixty (60) days, six hundred dollars (\$600.00) per day.

6. Any payment required to be made under the provisions of Section IV of this Consent Order shall be made by delivering to the State, care of Scott Hainer or his successor, Paralegal, at the Office of the Ohio Attorney General, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215, a cashier's check or certified check or checks made payable to the order of the "Treasurer, State of Ohio" for the appropriate amount within thirty (30) days from the date of the failure to comply with the requirement or deadline for this Order. The payment of the stipulated penalty shall be accompanied by a letter briefly listing

Defendant's name, describing the type of violation, deadline, or requirement not met and the date(s) upon which the violation of this Order occurred.

7. The payment of stipulated penalties by Defendant and the acceptance of such stipulated penalties by the State pursuant to this Section shall not be construed to limit the State's authority to seek additional relief pursuant to R.C. Chapter 3734 including civil penalties under R.C. Chapter 3734, or to otherwise seek judicial enforcement of this Consent Order for the same violation for which a stipulated penalty was paid or for other violations.

V. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

8. The State alleges in its Complaint that Defendant Hornick has violated R.C. Chapter 3734. Defendant Hornick denies such allegations. The State of Ohio and Defendant Hornick have agreed to resolve the disputed issues in this matter without adjudication of any issues of fact or law. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil and administrative liability of Defendant Hornick to the State for all of the claims alleged in the State's Complaint as well as all violations known by Ohio EPA up until the date of the Court's entry of this Consent Order.

9. This Consent Order shall not be construed to limit the authority of the State to seek relief for violations not alleged in the Complaint or resolved by this Consent Order, nor shall this Consent Order bar the State from bringing any action against Defendant Hornick for any violations arising out of acts or omissions first occurring occur after the entry of this Consent Order. The State expressly reserves and this Consent Order shall be without prejudice to, any claims demands rights or causes of action, judicial or administrative, that the State may have or which may in the future apply against Defendant Hornick or others any person, firm, trust joint venture, partnership, corporation, association, or other entity not a signatory to this Consent

Order, regardless of whether such claim, demand, right, or cause of action was asserted in the Complaint. Entering this Consent Order, the Consent Order itself, or the taking of any action in accordance with the Consent Order does not constitute and cannot be admitted as evidence of admission of any liability, wrongdoing, or misconduct on part of Defendant Hornick, their officers, employees, or agents by the State or by any other person or entity not involved in this case. Except as stated in Section I herein, Defendant Hornick shall retain all rights, defenses, and/or claims he may legally raise to the extent the State seeks further relief from Defendant Hornick in the future, or in any action brought to enforce the terms of this Consent Order.

10. Nothing herein shall be construed to relieve Defendant Hornick of his obligations to comply with applicable federal, State, or local statutes, regulations, rules, or ordinances.

11. Nothing in this Consent Order, including the imposition of civil penalties, shall be construed to limit the authority of the State to seek legal or equitable relief against non-settling Defendant TWL for claims or conditions either alleged or not alleged in the Complaint.

VI. MODIFICATION

12. No modification shall be made to this Consent Order without written agreement of the Parties.

VII. RETENTION OF JURISDICTION

13. The Court will retain jurisdiction of this action for the purpose of administering and enforcing Defendant Hornick's compliance with this Consent Order.

VIII. COSTS

14. Defendant Hornick is hereby ordered to pay the costs of this action.

IX. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

15. Pursuant to Civ.R. 58, 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 notice of the judgment upon all parties, including 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. SIGNATORIES

16. The signatory for Defendant Hornick represents that he is fully authorized to enter into the terms and conditions of this Consent Order and to legally bind Defendant Hornick to this Consent Order.

IT IS SO ORDERED:



JUDGE, Trumbull County Court of Common Pleas

**FILED
COURT OF COMMON PLEAS**

JUN 30 2015

**TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK**

**TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE
COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD
OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTH-
WITH BY ORDINARY MAIL.**



JUDGE


APPROVED BY:

MICHAEL DEWINE
OHIO ATTORNEY GENERAL



JOSEPH P. KONCELIK (0061692)
Tucker Ellis LLP
950 Main Ave., Suite 1100
Cleveland, OH 44113
Telephone: (216) 696-2373

Attorney for Defendant Hornick



NICHOLAS J. BRYAN (0079570)
Senior Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
Telephone: (614) 466-2766
Nicholas.Bryan@OhioAttorneyGeneral.gov

Attorney for Plaintiff State of Ohio