

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

**Accurate Plating Company**  
6512 Carnegie Avenue  
Cleveland, Ohio 44103

**Respondent**

.....  
**Director's Final  
Findings and Orders**

OHIO E.P.A.  
DEC 19 2005  
ENTERED DIRECTOR'S JOURNAL

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Accurate Plating Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates an electroplating facility located at 6512 Carnegie Avenue, in Cleveland, Cuyahoga County (Facility). Respondent is an Ohio corporation licensed to do business on February 1, 1967.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004205274.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility include spent plating bath solutions (F007, F008, F009) and electroplating wastewater treatment sludges (F006).
5. On March 30, 2004, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Stored containers of hazardous waste without a permit, in violation of ORC § 3734.02 (E) and (F).
  - b. Failed to evaluate waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;
  - c. Failed to store hazardous waste in containers that were closed, in violation of OAC rule 3745-66-73;
  - d. Failed to label and date containers of hazardous waste, in violation of OAC rule 3745-52-34 (A)(2) and (3);
  - e. Failed to conduct weekly inspections of emergency equipment and container accumulation areas, in violation of OAC rules 3745-65-33 and 3745-66-74;
  - f. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;
  - g. Failed to label a satellite accumulation container, in violation of OAC rule 3745-52-34(C)(1). This violation was abated at the time of the inspection;
  - h. Failed to have an emergency communication device immediately available at the scene of operations, in violation of OAC rule 3745-65-32;

- i. Failed to list spill control equipment in the contingency plan and update the contingency plan, in violation of OAC rule 3745-65-52 and OAC rule 3745-65-54;
  - j. Failed to have a personnel training program, in violation of OAC rule 3745-65-16;
  - k. Failed to submit annual hazardous waste reports, in violation of OAC rule 3745-52-41; and
  - l. Failed to label a container of used oil, in violation of OAC rule 3745-279-22(C)(1). This violation was abated at the time of the inspection.
6. By letter dated April 15, 2004, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.
7. By letters dated May 18, 2004 and June 14, 2004, Respondent submitted responses to Ohio EPA's April 15, 2004 letter.
8. On July 21, 2004, Ohio EPA conducted a follow up inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Stored containers of hazardous waste without a permit, in violation of ORC § 3734.02 (E) and (F);
  - b. Failed to evaluate waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;
  - c. Failed to list spill control equipment in the contingency plan and update the contingency plan, in violation of OAC rule 3745-65-52 and OAC rule 3745-65-54;
  - d. Failed to have a personnel training program, in violation of OAC rule 3745-65-16; and
  - e. Failed to submit annual hazardous waste reports, in violation of OAC rule 3745-52-41.
9. In addition to the violations referenced in Finding Nos. 5. and 8. of these Orders, the Director has determined that Respondent also violated numerous requirements found in OAC Chapters 3745-54 and 3745-55 applicable to owners and operators of hazardous waste facilities.

10. By letter dated July 22, 2004, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the May 18, 2004 and June 14, 2004 letters, Respondent had abated the violations referenced in Finding Nos. 5.c., 5.d., 5.e., 5.f. and 5.h. of these Orders.
11. By letters dated August 2, 2004 and August 11, 2004, Respondent submitted responses to Ohio EPA's July 22, 2004 letter.
12. By letter dated August 24, 2004, Ohio EPA notified Respondent of the violations referenced in Finding No. 8. of these Orders and notified Respondent that based upon the information submitted to Ohio EPA in the August 2, 2004 and August 11, 2004 letters, Respondent had abated the violation referenced in Finding Nos. 5.k. and 8.e. of these Orders.
13. During the March 30, 2004 and July 21, 2004 inspections, Ohio EPA observed a cadmium plating line which included at least twelve tanks. The tanks still held some liquid or several inches of sludge. The cadmium plating line had been out of service for approximately two years at the time of the March 30, 2004 inspection. Therefore, in accordance with OAC rule 3745-51-04(C), the cadmium plating line which has been storing hazardous wastes for greater than 90 days is considered a tank system. In addition to the violations referenced in Finding Nos. 5., 8. and 9. of these Orders, the Director has determined that Respondent has been storing hazardous wastes without a permit in the tanks and has failed to comply with the tank system requirements, in violation of ORC § 3734.02 (E) and (F), OAC rules 3745-55-91 through 3745-55-96 and OAC rule 3745-55-98.
14. By letter dated October 29, 2004, Respondent submitted a response to Ohio EPA's August 24, 2004 letter.
15. By letter dated November 15, 2004, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the October 29, 2004 letter, Respondent had abated the violations referenced in Finding Nos. 5.j. and 8.d. of these Orders.
16. By letter dated December 17, 2004, Respondent submitted a response to Ohio EPA's November 15, 2004 letter.
17. By letter dated February 3, 2005, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the December 17, 2004 letter, Respondent had abated the violations referenced in Finding Nos. 5.i. and 8.c. of these Orders.
18. By letter dated March 7, 2005, Respondent submitted a response to Ohio

EPA's February 3, 2005 letter. Based upon the information submitted to Ohio EPA in this letter, the Director has determined that Respondent abated the violations referenced in Finding Nos. 5.b., 8.b. and 9. of these Orders.

19. On June 7, 2005, Ohio EPA conducted a follow up inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Stored containers of hazardous waste without a permit, in violation of ORC § 3734.02 (E) and (F); and
  - b. Failed to submit an annual hazardous waste report, in violation of OAC rule 3745-52-41.

By letter dated July 12, 2005, Ohio EPA notified Respondent of the violations referenced in Finding No. 19. of these Orders.

20. By letter dated August 11, 2005, Respondent submitted a response to Ohio EPA's July 12, 2005 letter.
21. By letter dated October 7, 2005, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the August 11, 2004 letter, Respondent had abated the violation referenced in Finding No. 19.b. of these Orders. Ohio EPA's letter also noted that at least 34 containers of hazardous waste were still stored at the Facility without a permit in violation of ORC § 3734.02(E) and (F). Based upon information provided by Respondent, Ohio EPA has determined that there are five additional containers of hazardous waste at the Facility which have been stored without a permit in violation of ORC § 3734.02(E) and (F). The total number of containers which have been stored at the Facility without a permit in violation of ORC § 3734.02(E) and (F) is 39.
22. Based upon the fact that no releases of hazardous waste were evident at the time of the inspections referenced in Finding Nos. 5., 8. and 19. of these Orders and that Respondent is continuing to use the container storage area to store hazardous wastes, the Director has determined that closure of this area is not required at this time. Furthermore, since Respondent has removed all hazardous wastes from the cadmium plating line referenced in Finding No. 13. of these Orders and no releases were evident at the time of the aforementioned inspections, the Director has determined that closure the cadmium plating line is not required at this time.
23. Based upon a review of financial information submitted by Respondent, Ohio EPA determined that Respondent does not possess the financial ability to

pay the entire civil penalty settlement proposed in the Director's letter of March 14, 2005.

## **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective of the Orders, Respondent shall submit to Ohio EPA for review and approval a schedule for the off-site removal of all hazardous waste stored at the Facility without a permit in violation of ORC § 3734.02(E) and (F) as referenced in Finding Nos. 5., 8., 19., and 21. of these Orders. The schedule shall provide that shipments of hazardous waste will commence no later than January 1, 2006 and will be completed no later than June 30, 2006. Within 60 days after an off-site shipment of hazardous waste, Respondent shall submit the corresponding manifest(s) to Ohio EPA in accordance with Section X. of these Orders.
2. Respondent shall pay Ohio EPA the amount of \$25,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$20,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
  - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$500.00;
  - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$500.00;
  - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$500.00;
  - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$500.00;
  - e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,450.00;
  - f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,450.00;
  - g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,450.00;

- h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,450.00;
- i. Within 810 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,050.00;
- j. Within 900 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,050.00;
- k. Within 990 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,050.00; and
- l. Within 1080 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,050.00.

Each of the payments above shall be made by an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

- 3. In lieu of paying the remaining \$5,000.00 of civil penalty, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$5,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
  - a. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;
  - b. Within 450 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;
  - c. Within 540 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;
  - d. Within 720 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;
  - e. Within 810 days after the effective date of these Orders, Respondent

shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;

- f. Within 900 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00;
- g. Within 990 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00; and
- h. Within 1080 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$625.00.

Each of the payments above shall be made by official checks made payable to "Treasurer, State of Ohio." The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

- 4. Should Respondent miss a scheduled payment as described in Order Nos. 3.a. through 3.h. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 2. of these Orders. A copy of each check shall be submitted in accordance with Section X. of these Orders.

## **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 Ohio EPA's Division of Hazardous Waste Management 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 a corporate officer who is in charge of a principal business function of Respondent.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

#### **VIII. 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.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Hazardous Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, Director  
Ohio Environmental Protection Agency

Lazarus Government Center  
Division of Hazardous Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
122 South Front Street  
Columbus, Ohio 43215  
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure as well as corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure of hazardous waste units and corrective action at the Facility, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission,

or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

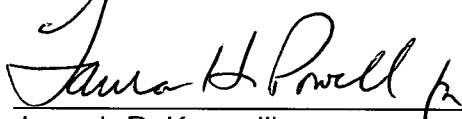
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



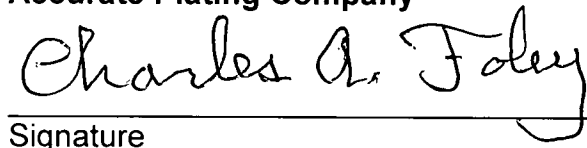
Joseph P. Koncelik  
Director

DEC 19 2005

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Accurate Plating Company**

  
Signature

11-21-05  
\_\_\_\_\_  
Date

Charles A. Foley  
\_\_\_\_\_  
Printed or Typed Name

President  
\_\_\_\_\_  
Title