

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Electro Plating and Fabricating Co.
4008 East 89th Street
Cleveland, Ohio 44105

Respondent

**Director's Final
Findings and Orders**

ENTERED DIRECTOR'S JOURNAL

DEC 17 2003

OHIO E.P.A.

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PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Electro Plating and Fabricating Co. (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 is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent owns and operates a metal finishing facility located at 4008 East 89th Street, Cleveland, Cuyahoga County, Ohio (Facility). At the Facility, Respondent conducts bright dipping, electro-polishing and passivation on stainless steel and brass.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004209904.
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 waste generated by Respondent at the Facility includes wastewater treatment filter cake (F006), waste corrosive liquid (D002/D007/D008/D010) and waste caustic alkali liquid (D002/D008).
5. On August 29, 2002, Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Established and operated a hazardous waste storage facility without a permit, in violation of ORC § 3734.02(E) & (F);
 - b. Failed to label a container holding hazardous waste with the words "Hazardous Waste," in violation of OAC rule 3745-52-34(C)(1)(b);
 - c. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;
 - d. Failed to close a container holding hazardous waste when not adding or removing waste, in violation of OAC rule 3745-66-73(A);
 - e. Failed to conduct and document hazardous waste tank inspections, in violation of OAC rule 3745-66-95;
 - f. Failed to respond to leaks or spills in secondary containment from a hazardous waste tank, in violation of OAC rule 3745-66-96;

- g. Failed to conduct and document inspections of emergency equipment, in violation of OAC rule 3745-65-33;
 - h. Failed to conduct and document weekly inspections of hazardous waste storage areas, in violation of OAC rule 3745-66-74;
 - i. Failed to label used oil containers with the words "Used Oil," in violation of OAC rule 3745-279-22(C)(1);
 - j. Failed to include adequate emergency response procedures in the contingency plan, in violation of OAC rule 3745-65-52(A);
 - k. Failed to describe arrangements with all local authorities in the contingency plan, in violation of OAC rule 3745-65-52(C);
 - l. Failed to include current addresses and phone numbers in the contingency plan for persons listed as emergency coordinators, in violation of OAC rule 3745-65-52(D);
 - m. Failed to include a list of emergency equipment in the contingency plan, in violation of OAC rule 3745-65-52(E);
 - n. Failed to provide copies of the contingency plan to all local authorities, in violation of OAC rule 3745-65-53(B); and
 - o. Failed to develop, implement and maintain hazardous waste management training and associated documentation for employees at the Facility, in violation of OAC rule 3745-65-16(A) through (D).
6. On September 13, 2002, Ohio EPA conducted a follow-up inspection at the Facility.
7. By letter dated October 2, 2002, Ohio EPA notified Respondent of the violations referenced in Finding No. 5 of these Orders. Also in the October 2, 2002 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.c. and 5.i.
8. In correspondence dated October 9, 2002, Respondent provided responses to Ohio EPA's October 2, 2002 letter.
9. By letter dated December 3, 2002, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.b., 5.d 5.e., 5.g., 5.h., and 5.j. through 5.n. of these Orders.

10. In correspondence dated December 17, 2002, Respondent provided responses to Ohio EPA's December 3, 2002 letter.
11. By letter dated January 6, 2003, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.f. of these Orders.
12. In correspondence dated February 6, 2003, Respondent provided responses to Ohio EPA's January 6, 2003 letter.
13. By letter dated February 21, 2003, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.o.
14. No additional action is required of Respondent at this time regarding the ORC § 3734.02(E) & (F) violation referenced in Finding No. 5.a.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of \$10,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. In lieu of payment of the \$10,000.00, Respondent shall implement a supplemental environmental project (SEP) by contributing \$10,000.00 to the Cleveland Municipal School District School Bus Retrofit & Anti-Idling Program (CMSD Program). Monies given to this Program will allow the Cleveland Municipal School District to upgrade the district's school buses with emissions control technology, and will be submitted pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
 - b. Within 60 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
 - c. Within 90 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
 - d. Within 120 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;

- e. Within 150 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- f. Within 180 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- g. Within 210 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- h. Within 240 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- i. Within 270 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- j. Within 300 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- k. Within 330 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- l. Within 360 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- m. Within 390 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- n. Within 420 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- o. Within 450 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- p. Within 480 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- q. Within 510 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- r. Within 540 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00;
- s. Within 570 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00; and

- t. Within 600 days after the effective date of these Orders, Respondent shall pay to the CMSD Program the amount of \$500.00.

Respondent shall tender the official checks, each in the amount of \$500.00, to the Cleveland Municipal School District, Attention: Treasurer, Cleveland Municipal School District, 1380 East Sixth Street, 400 South, Cleveland, Ohio 44115, made payable to "Cleveland Municipal School District." Each check shall identify Revenue Account: 007.8588.1820, and shall be accompanied by a letter identifying the Respondent and the Facility. A copy of these checks shall be submitted in accordance with Section X. of these Orders.

2. Should Respondent fail to fully comply with Order No. 1, Respondent shall pay to Ohio EPA the remaining unpaid balance due the CMSD Program which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for the remaining unpaid balance. The official check 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. Payment shall be due no later than 30 days after the date Respondent last missed a scheduled payment, as that schedule appears in Order No. 1. A copy of this check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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 E. 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:

Christopher Jones, 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:

Christopher Jones, 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 of hazardous waste units at the Facility, pursuant to ORC Chapter 3734, or any other applicable law in the future to address violations specifically cited in these Orders. 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 right to seek closure of hazardous waste units by Respondent for violations specifically cited in these Orders, which right 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

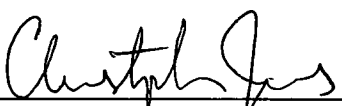
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



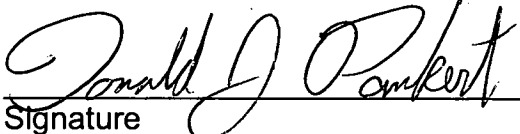
Christopher Jones
Director

DEC 17 2003

Date

IT IS SO AGREED:

Electro Plating and Fabricating Co.



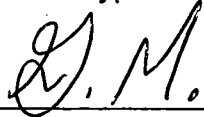
Signature

12/10/03

Date

DONALD J. PAUKERT

Printed or Typed Name



Title