



IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

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State of Ohio ex rel. Nancy H. Rogers,
Attorney General of Ohio,

Plaintiff,

v.

R.L.R. Investments, LLC,

Defendant.

Case No. 2005 CV 08113

Judge Mary Katherine Huffman

GABRIEL A. BRUCH
CLERK OF COURTS
MONTGOMERY CO. OHIO
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CONSENT ORDER AND FINAL JUDGMENT ENTRY

Plaintiff State of Ohio ("Plaintiff"), by and through its Attorney General, Nancy H. Rogers, at the written request of the Director of Environmental Protection, having filed a Complaint against Defendant R.L.R. Investments, LLC ("Defendant") for alleged violations of R.C. Chapter 3704 and the rules promulgated thereunder, the Defendant having fully denied that any violations occurred and the Court making no finding that any violations occurred, the parties having consented to the entry of this Order,

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

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3704 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

II. PERSONS BOUND

2. The provisions of this Consent Order shall apply to and be binding upon Plaintiff and Defendant, its agents, officers, employees, contractors, assigns, successors-in-interest, and any person acting in concert, privity, or participation with it who receives actual notice of this Consent Order whether by personal service or otherwise.

3. Defendant is hereby enjoined to provide actual notice of this Order to its relevant agents, officers, employees, assigns, contractors, and successors-in-interest.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

4. The parties acknowledge that the Court has made no finding or determination of any wrongdoing or civil liability on the part of Defendant and Defendant denies any violations at the Urban Resort property located at 330 West First Street, Dayton, Montgomery County, Ohio (hereinafter "the Property"), and therefore, this Consent Order does not constitute an admission, finding, or determination of violations at the Property. Notwithstanding, the terms of this Consent Order shall constitute full and complete satisfaction and resolution of (i) this action between Plaintiff and Defendant, its agents, officers, employees, and successors-in-interest to the Defendant, for the claims alleged in the Complaint, and (ii) any claim by Plaintiff under Ohio Adm. Code Chapter 3745-20, based upon any events which may have occurred prior to the filing of this Consent Order, regarding the Property.

5. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations unrelated to the Property and not satisfied by this Consent Order, nor shall this Consent Order bar the Plaintiff from bringing any action against the Defendant for any violations unrelated to the Property that occur after the filing of this Consent Order. Nothing in this Consent Order shall be construed to relieve Defendant of its obligations to comply with

applicable federal, state, or local statutes, regulations, rules, or ordinances.

**IV. NO ADMISSION OF LIABILITY BY DEFENDANT AND NO FINDING OF
WRONGDOING OR LIABILITY BY THE COURT**

6. The terms set out in this Consent Order are a compromise settlement of disputed claims, the validity, existence or occurrence of which is expressly denied by Defendant. The parties hereby agree, acknowledge, and stipulate that this Consent Order shall not be admissible evidence in any judicial, administrative, or any other proceedings, legal or otherwise, as an admission by Defendant of any wrongful acts whatsoever, including without limitation, any admission or acknowledgement that the allegations contained in the Complaint are true. The parties expressly agree, acknowledge, and stipulate that Defendant vigorously denies the truth of the allegations contained in the Complaint. Further, Plaintiff hereby agrees, acknowledges, and stipulates that this Consent Order does not constitute either a finding by the Court of wrongdoing, civil liability, or a determination of the violations at the Property.

V. INJUNCTIVE RELIEF

7. Defendant is ordered and permanently enjoined to comply with R.C. Chapter 3704 and the rules promulgated thereunder, specifically with Ohio Admin. Code Chapter 3745-20.

VI. PAYMENT

8. Subject to the above stipulations, Defendant shall pay a total civil penalty of Two-Hundred Twenty-Seven Thousand Seven-Hundred Dollars (\$227,700.00). Of this amount, Defendant agrees to pay One-Hundred Eighty-Two Thousand One-Hundred Sixty Dollars (\$182,160.00) by certified check payable to the order of "Treasurer, State of Ohio" and delivered within thirty (30) days of entry of this Consent Order to Martha Sexton or her

successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, Floor, Columbus, Ohio 43215-3400. The memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 248875."

VII. SUPPLEMENTAL ENVIRONMENTAL PROJECT

9. Defendant shall pay the remaining Forty-Five Thousand Five-Hundred Forty Dollars (\$45,540.00) as set forth in Section VI, within thirty (30) days of entry of this Consent Order to the Clean Diesel School Bus Program established by the Director of Environmental Protection for the purpose of installing, in accordance with Ohio Environmental Protection Agency guidelines, diesel particulate filters for school buses operated by school districts in the State of Ohio. Money in the fund shall be made available to school districts in accordance with a grant established by the Director of Environmental Protection. This amount shall be paid by certified check payable to the order of "Treasurer, State of Ohio" and delivered within thirty (30) days of entry of this Consent Order to Martha Sexton or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400. The memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 248875" and specify that such monies are to be deposited into the fund established by Ohio Environmental Protection Agency for the Clean Diesel School Bus Program.

VIII. RETENTION OF JURISDICTION

10. This Court shall retain jurisdiction of this action solely for the purpose of enforcing this Consent Order.

IX. COURT COSTS

11. Defendant shall pay the court costs of this action.

X. TERMINATION

12. Upon the payments in accordance with Sections VI and VII of this Consent Order, the parties agree, acknowledge, and stipulate that Defendant may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order, including, without limitation, the injunctive relief set forth in Section V and the Court's retention of jurisdiction set forth in Section VIII.

XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

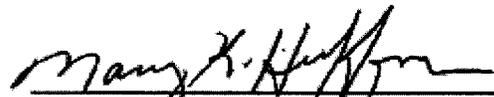
13. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

14. Each signatory for Defendant represents and warrants that he/she has been duly authorized to sign this document and so bind the Defendant to all terms and conditions thereof.

IT IS SO ORDERED.

Date: _____



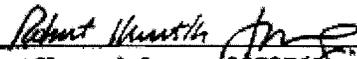
JUDGE MARY KATHERINE HUFFMAN

APPROVED:

**NANCY H. ROGERS
ATTORNEY GENERAL OF OHIO**

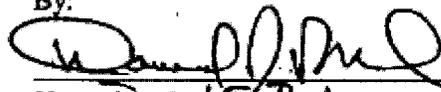
RLR INVESTMENTS, LLC

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