

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

TERMINATION NO. 18  
BY AEF

STATE OF OHIO, ex. rel.	:	
NANCY ROGERS	:	
ATTORNEY GENERAL OF OHIO	:	CASE NO. 07-CVH-04-4640
	:	
	:	JUDGE T. HORTON
Plaintiff,	:	
	:	
v.	:	
	:	<u>CONSENT ORDER</u>
SULLIVANT AVE. INC., et al.,	:	
	:	
Defendants.	:	

The Complaint in the above-captioned matter having been filed herein, and the Plaintiff State of Ohio, by its Attorney General, Nancy Rogers ("Plaintiff" or "State"), and Defendants Sullivant Ave, Inc., ("Sullivant"), Atef Jallaq ("AJ Jallaq"), and Nafez Jallaq (collectively "Defendants") having consented to the entry of this Order;

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

**I. JURISDICTION AND VENUE**

1. This Court has jurisdiction over the parties and the subject matter of this action pursuant to R.C. Chapter 3737. Venue is proper in this Court. Solely for purposes of this Consent Order and the underlying Complaint, Defendants do not contest that the Complaint states a claim upon which relief can be granted against Defendants.

**II. PARTIES**

2. The provisions of this Consent Order shall apply to and are binding upon the Defendants and its respective successors in interest and assigns, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure. The undersigned representatives of each party to this

Consent Order certifies that he or she is fully authorized by the party or parties whom he or she represents to enter into the terms and conditions of the Consent Order and to execute and legally bind that party or parties to it.

3. Defendants shall provide a copy of this Consent Order to any agent that Defendants employ to operate, close, and/or conduct post-closure care or any remedial activity at the Marathon gas station ("Facility") and the underground storage tanks ("USTs") located at the Facility. Defendants shall ensure that any agreement made with any agent Defendants employs to operate, close, conduct post-closure or any remedial activity at the Facility or for services or work related to this Consent Order, expressly provides that the services or work shall be performed in accordance with this Consent Order.

### **III. SATISFACTION OF LAWSUIT AND EFFECT OF CONSENT ORDER**

4. The State has alleged that Defendants have violated R.C. Chapter 3737 and the regulations promulgated thereunder.

5. Except as otherwise provided in paragraph 6 of this Consent Order, compliance with the terms of this Consent Order shall constitute full satisfaction of any civil and administrative liability of Defendants and its successors in interest and assigns for the claims alleged in the State's Complaint.

6. Nothing in this Consent Order shall be construed to limit the authority of the State to seek relief from Defendants for: (A) claims or violations not referenced in the Complaint; (B) any violations arising out of acts or omissions first occurring after the effective date of this Consent Order; or (C) claims or violations under the Comprehensive Environmental Response Compensation and Liability Act, as amended, 42 U.S.C. §§9601 et. seq. or R.C. §§3734.20 through 3734.27 for any emergency, removal, remedial, corrective actions, or natural resource

damages. Defendants retain all rights, defenses, and/or claims they may legally raise to the extent that the State seeks further relief from them in the future, or in any action brought to enforce the terms of this Consent Order, except that they shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim splitting, or other defenses based upon any contention that the claims raised by the State in subsequent proceedings were or should have been brought in the instant case.

7. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with it and/or any work performed at the Facility to date does not constitute an admission of any liability, wrongdoing, or misconduct on the part of the Defendants, its officers, employees or representatives.

8. Nothing herein shall be construed to relieve Defendants of their obligation to comply with all applicable federal, state, or local statutes, regulations, or ordinances, including but not limited to the applicable permit requirements thereunder.

#### IV. PERMANENT INJUNCTION

9. Except as set forth in Section V, Defendants agree and are ordered and permanently enjoined to comply with R.C. Chapter 3737 and the regulations promulgated thereunder.

#### V. INJUNCTIVE RELIEF

10. Within thirty (30) days of entry into this Consent Order, Defendants agree to update their annual registration forms for the UST systems at the Facility, and maintain updated registration forms, at the Facility, thereafter.

11. Within thirty (30) days of entry into this Consent Order, Defendants shall obtain, for the life of the Facility, a valid certificate of coverage from the petroleum underground storage tank release compensation board.

12. Within thirty (30) days of receiving a valued certificate of coverage as required by Paragraph 11, above, Defendants shall submit a copy of the certificate to Lori Stevens, or her successor, at the address set forth in Paragraph 19.

13. Defendants shall monitor their UST systems at the Facility at least every thirty days for a petroleum release in accordance with Ohio Admin. Code 1301:7-9-07(B)(1).

14. Defendants shall perform a third party tightness tests of all pressure piping pursuant to paragraph (F)(2) of rule 1301:7-9-07 of the Administrative Code and shall submit the results of the tests to Lori Stevens, or her successor, at the address set forth in Paragraph 19.

15. Defendants shall perform a third party tests of all automatic line leak detectors pursuant to paragraph (F)(3)(a) of rule 1301:7-9-07 of the Administrative Code and shall submit the results of the tests to Lori Stevens, or her successor, at the address set forth in Paragraph 19.

#### **VI. CIVIL PENALTY.**

16. Defendants are ordered and enjoined to pay a civil penalty of Four Thousand Dollars (\$4,000.00) to the State. Such payment shall be made by delivering to Martha Sexton, Paralegal, or her successor, Office of the Attorney General, 30 E. Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a check or checks for the appropriate amount, payable to the order of "Treasurer, State of Ohio." The total civil penalty shall be paid in accordance with the following schedule:

- One Thousand Dollars (\$1,000.00) within thirty (30) days of the entry of this Consent Order.

- One Thousand Dollars (\$1,000.00) within sixty (60) days of the entry of this Consent Order.

- One Thousand Dollars (\$1,000.00) within ninety (90) days of the entry of this Consent Order.

- One Thousand Dollars (\$1,000.00) within one hundred and twenty (120) days of the entry of this Consent Order.

#### **VII. STIPULATED PENALTIES**

17. In the event that Defendants fail to comply with any of the requirements of Sections IV, V and/or VI of this Consent Order, Defendants shall immediately and automatically be liable for and shall pay a stipulated penalty that is meant to be coercive in nature in accordance with the following schedule:

- a. Defendants shall pay two hundred fifty dollars (\$250.00) per day for each day any requirement of this Consent Order is violated up to thirty (30) days;
- b. From thirty-one (31) days through ninety (90) days, Defendants shall pay five hundred dollars (\$500.00) per day for each day any requirement of this Consent Order is violated;
- c. After ninety (90) days, Defendants shall pay seven hundred and fifty dollars (\$750.00) per day for each day any requirement of this Consent Order is violated.

18. Stipulated penalties due under this Consent Order shall be paid by certified check or money order, payable to "Treasurer, State of Ohio" and mailed to Martha Sexton or her successor, Office Manager, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25<sup>th</sup> Floor, Columbus, Ohio 43215-3400.

**VIII. NOTICES**

19. All documents required to be submitted under this Consent Order shall be submitted to the following, or their successor:

As to Plaintiff:

The Ohio Department of Commerce  
Division of State Fire Marshal  
Lori Stevens  
8895 E. Main St.  
Reynoldsburg, OH 43068

As to Defendants:

AJ Jallaq  
4220 Orders Rd.  
Grove City, OH 43123

20. Either Party may change the name and/or address of its contact person(s) by sending written notice to the other Party.

**X. EFFECTIVE DATE**

21. This Consent Order shall become effective upon the date of its entry by the Court.

**XI. COSTS**

22. Defendants are hereby ordered to pay the court costs of this action.

**XII. RETENTION OF JURISDICTION**

23. This Court shall retain jurisdiction of this action for the purposes of making any Order or Decree, which it deems appropriate to carry out this Consent Order.

**XIII. SIGNATORIES**

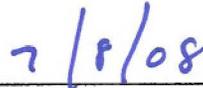
24. Each of the undersigned representatives of the Parties represents that he/she is fully authorized to enter into the terms and conditions of this Consent Order and legally bind the respective party to this document.

IT IS SO ORDERED



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JUDGE  
FRANKLIN COUNTY  
COURT OF COMMON PLEAS

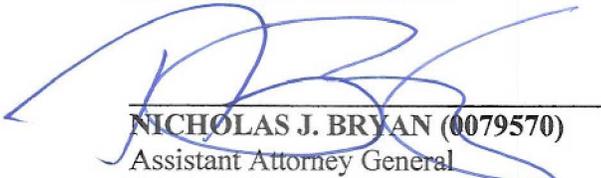


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DATE

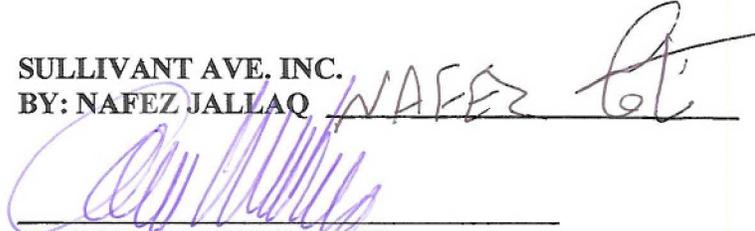
**APPROVED BY:**

**NANCY ROGERS  
ATTORNEY GENERAL**



**NICHOLAS J. BRYAN (0079570)**  
Assistant Attorney General  
Environmental Enforcement Section  
30 East Broad Street, 25<sup>th</sup> Floor  
Columbus, Ohio 43215  
Telephone: (614) 466-2766  
Facsimile: (614) 466-1926  
*Attorney for Plaintiff  
State of Ohio*

**SULLIVANT AVE. INC.  
BY: NAFEZ JALLAQ**



**GARY W. LYONS (0021173)**  
DeLibera, Lyons & Bibbo  
336 S High St  
Columbus, OH 43215-4510  
(614) 228-1313

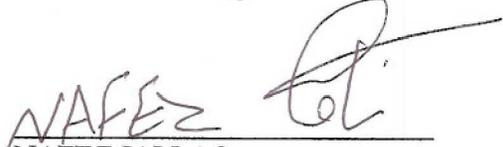
*Attorney for Defendants*

**ATEF JALLAQ**



Atef Jallaq  
4220 Orders Rd.  
Grove City, OH 43123  
(In His Individual Capacity)

**NAFEZ JALLAQ**



NAFEZ JALLAQ  
4191 Orders Rd.  
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(In His Individual Capacity)