

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

STATE OF OHIO, ex rel. MARC DANN :	:	CASE NO. 2006-CV-0143
ATTORNEY GENERAL OF OHIO	:	
	:	
Plaintiff,	:	JUDGE R. BASINGER
	:	
v.	:	
	:	
CLYMER ACQUISITION, INC.,	:	<u>CONSENT ORDER AND</u>
et al.,	:	<u>FINAL JUDGMENT ENTRY</u>
	:	
	:	
Defendants.	:	

COMMON PLEAS COURT
TERESA J. LAMBERTS, CLERK
PUTNAM COUNTY, OHIO
2007 OCT -4 A 9:08

Plaintiff, State of Ohio, ex rel. Marc Dann, Attorney General of Ohio (“Plaintiff”), having filed the Complaint in this action against Defendants Gary C. Clymer and Glarry Company, Inc. (“Defendants”) to enforce Ohio’s air pollution control laws found in R.C. Chapter 3704 and rules adopted thereunder; and Plaintiff and Defendants having consented to the entry of this Consent Order and Final Judgment Entry (“Consent Order”);

THEREFORE, without trial or admission of any issue of law or of fact, 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 Defendants, their agents, officers, employees, assigns, successors-in-interest, heirs, and any person acting in concert, privity or participation with them who receives actual notice of this Consent Order whether by personal service or otherwise.

III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

3. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants to the Plaintiff for the claims alleged in the Plaintiff's Complaint.

4. This Consent Order shall not be construed to limit the authority of the Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State from bringing any action against the Defendant for any violations that occur after the entry of this Order. Nothing in this Consent Order shall be construed to relieve Defendants of their obligations to comply with applicable federal, state or local statutes, regulations, or ordinances.

IV. PERMANENT INJUNCTION

5. As Defendants have sold and no longer operate the Facility relevant to this Complaint, if Defendants seek to commence operation of any facility or air contaminant source subject to regulation under R.C. 3704, Defendants shall immediately comply with the provisions contained in Paragraphs 6 and 7.

6. Defendants are ordered and permanently enjoined to comply fully with R.C. Chapter 3704 and the regulations promulgated thereunder.

7. Defendants are ordered and enjoined from installing and/or operating any

air contaminant source without first complying with the permitting requirements of Ohio Adm.Code Chapters 3745-31, 3745-35 and/or 3745-77.

V. CIVIL PENALTY

8. Pursuant to and in accordance with R.C. 3704.06, Defendants are enjoined and ordered to pay a total civil penalty of Eighty-Three Thousand Dollars (\$83,000.00) to the State of Ohio. Such penalty shall be paid as follows:

A. Defendants shall, within thirty (30) days of receipt of entry of this Consent Order, fund a supplemental environmental project (“SEP”) by making a contribution in the amount of Sixteen Thousand Six Hundred Dollars (\$16,600.00) of the total civil penalty to Ohio EPA’s Clean Diesel School Bus Program Fund (Fund 5CD0). Defendant shall tender a certified check payable to the order of “Treasurer, State of Ohio” for Sixteen Thousand Six Hundred Dollars (\$16,600.00). The certified check shall specify that such monies be deposited in the Fund 5CD0 established by Ohio EPA for the Clean Diesel Bus Program. The certified check together with a letter identifying the Defendants shall be delivered 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. 271549.”

B. Defendants shall pay the remaining Sixty-Six Thousand Four Hundred Dollars (\$66,400.00) of the total civil penalty by cashier’s or 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. 271549”.

VI. RETENTION OF JURISDICTION

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

VII. COSTS

10. Defendants shall pay the court costs of this action.

VIII. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

11. 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.

IX. AUTHORITY TO ENTER INTO THE CONSENT ORDER

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

IT IS SO ORDERED:

Randall Basinger "signed"

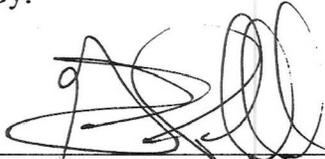
JUDGE R. BASINGER

PUTNAM COUNTY
COURT OF COMMON PLEAS

Respectfully submitted,

MARC DANN
ATTORNEY GENERAL

By:

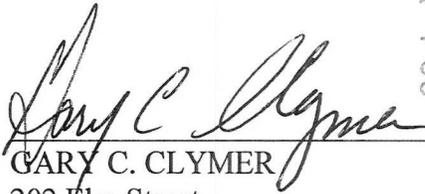


GARY L. PASHEILICH (0079162)
TERI J. FINFROCK (0037903)
Assistant Attorneys General
Environmental Enforcement Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215-3400
Telephone: (614) 466-2766
Facsimile: (614) 644-1926
gpasheilich@ag.state.oh.us

*Attorneys for Plaintiff
State of Ohio*

GARY C. CLYMER

By:



GARY C. CLYMER
202 Elm Street
Columbus Grove, Ohio 45830

*Individually, and as Officer of
Glarry Company, Inc., dissolved*



FRANK J. REHD, JR. (0055234)
ORLA E. COLLIER, III (0014317)
41 South High Street, 26th Floor
Columbus, Ohio 43215-6150
Telephone: (614) 223-9300
Facsimile: (614) 223-9330

Attorney for Defendant

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COMMON PLEAS COURT
TERESA J. LAHRENS, CLERK
PUTNAM COUNTY, OHIO