FILED
COMMON PLEAS COURT
BELMONT CO. OH
2010 APR 23 AM 11 05
RANDY L. MARPLE
CLERK OF COURT

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS

DOCKENT AND JOURANL ENTRY

State Of Ohio
Attorney General, et al.,

Plaintiff

Vs.

Tri-State Group, Inc.,
Glenn Straub, et al.,

Defendants

Case No.: 00 CV 0180

Date: April 22, 2010

This matter came before the Court on November 2, 2009, pursuant to an entry, filed August 27, 2009, for a Final Hearing to resolve the issue of the amount of reasonable costs expended by Defendants in accomplishing the Court-Ordered clean-up objectives to assure Closure of the Site and installation, implementation and maintenance of the Ground Water Monitoring System, which objectives were Ordered by this Court in its Judgment Entry, filed August 27, 2007 and to determine the total amount of Defendants' Second Civil Penalty totaling $247,590.00, with accrued interest, and the amount of costs that may be applied, dollar for dollar, to purge Defendants' Second Civil Penalty.

It is Ordered, Adjudged and Decreed that the amount of Defendants' Second Civil Penalty herein, $247,590.00, assessed on August 27, 2007, plus post-judgment interest accruing from June 4, 2004 to November 4, 2009, totals $354,875.00. It should be noted, at this juncture, that the Court in accord with the Judgment Entry filed August 27, 2007, (See, p. 7 of Judgment Entry) has chosen not to impose upon Defendants an additional penalty, except for the accrual of interest as stated above, which accrual shall continue from November 4, 2009, at the statutory rate, until said penalty is paid in full.

It is Ordered, Adjudged and Decreed that Defendants shall be credited the amount of $158,459.70 as and for reasonable costs expended by Defendants in accomplishing the Court-Ordered clean-up objectives which may be applied, dollar for dollar, to purge Defendants' Second Civil Penalty. Therefore, the balance of Defendants' Second Civil Penalty totals $196,415.30.

The Court Orders that the balance of Defendants' First Civil Penalty ($194,508.00) and the balance of Defendants' Second Civil Penalty ($196,415.30) shall be filed as Judgment Liens against said Defendants, Tri-State Group, Inc. and Glenn Straub, as an individual. The State of Ohio is Ordered to file said Judgment Lien within thirty (30) days of the date of this Judgment Entry.

This is a Final, Appealable Order. However, in the event Defendants would choose to appeal the final decision of this Court in regard to the determination of this Second Civil Penalty in the amount of $196,415.30, the Judgment of this Court shall not be Stayed unless and until Defendants file with this Court a Supersedeas Bond in the amount of two hundred fifty thousand dollars ($250,000.00), the amount of the Second Civil Penalty, including anticipated, accrued interest during the period of appeal.

This is a Final, Appealable Order.

"Special Entry"

JOHN M. SOLOVAN, II

JOHN M. SOLOVAN, II - JUDGE

pc: Timothy J Kern, Atty./Pl.
Larry A Zink, Atty./Def.

STATE OF OHIO, COUNTY OF BELMONT
COURT OF COMMON PLEAS

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RANDY L. MARPLE
CLERK OF COURT

State Of Ohio
Attorney General, et al.,

Plaintiff

Vs.

Tri-State Group, Inc.,
Glenn Straub, et al.,

Defendants

Case No.: 00 CV 0180

JUDGMENT ENTRY

This matter came before the Court on November 2, 2009, pursuant to an entry, filed August 27, 2009, for a Final Hearing to resolve the issue of the amount of reasonable costs expended by Defendants in accomplishing the Court-Ordered clean-up objectives to assure Closure of the Site and installation, implementation and maintenance of the Ground Water Monitoring System, which objectives were Ordered by this Court in its Judgment Entry, filed August 27, 2007 and to determine the total amount of Defendants' Second Civil Penalty totaling $247,590.00, with accrued interest, and the amount of costs that may be applied, dollar for dollar, to purge Defendants' Second Civil Penalty.

It is Ordered, Adjudged and Decreed that the amount of Defendants' Second Civil Penalty herein, $247,590.00, assessed on August 27, 2007, plus post-judgment interest accruing from June 4, 2004 to November 4, 2009, totals $354,875.00. It should be noted, at this juncture, that the Court in accord with the Judgment Entry filed August 27, 2007, (See, p. 7 of Judgment Entry) has chosen not to impose upon Defendants an additional penalty, except for the accrual of interest as stated above, which accrual shall continue from November 4, 2009, at the statutory rate, until said penalty is paid in full.

It is Ordered, Adjudged and Decreed that Defendants shall be credited the amount of $158,459.70 as and for reasonable costs expended by Defendants in accomplishing the Court-Ordered clean-up objectives which may be applied, dollar for dollar, to purge Defendants' Second Civil Penalty. Therefore, the balance of Defendants' Second Civil Penalty totals $196,415.30.

The Court Orders that the balance of Defendants' First Civil Penalty ($194,508.00) and the balance of Defendants' Second Civil Penalty ($196,415.30) shall be filed as Judgment Liens against said Defendants, Tri-State Group, Inc. and Glenn Straub, as an individual. The State of Ohio is Ordered to file said Judgment Lien within thirty (30) days of the date of this Judgment Entry.

This is a Final, Appealable Order. However, in the event Defendants would choose to appeal the final decision of this Court in regard to the determination of this Second Civil Penalty in the amount of $196,415.30, the Judgment of this Court shall not be Stayed unless and until Defendants file with this Court a Supersedeas Bond in the amount of two hundred fifty thousand dollars ($250,000.00), the amount of the Second Civil Penalty, including anticipated, accrued interest during the period of appeal.

This is a Final, Appealable Order.

John M. Solovan, II - Judge

FINDINGS OF COURT

This matter came before the Court on November 2, 2009, pursuant to a Judgment Entry, filed August 27, 2009, for a final hearing to resolve the issues of the total amount of Defendants' Second Civil Penalty, including accrued interest, and the reasonable costs expended by Defendants in accomplishing the court-ordered clean-up objectives to assure Closure of the Site and installation, implementation and maintenance of the Ground Water Monitoring System Ordered by this Court in the Judgment Entry, filed August 27, 2007, and, finally, to determine what amount of said costs may be applied, dollar for dollar, to purge Defendants' Second Civil Penalty.

At the hearing, the parties agreed that Closure of the Site has occurred and that the ground water is presently being monitored in accord with Ohio EPA regulations and applicable Ohio law. The parties also advised of an agreement as to the amount of attorneys fees Defendants were to pay to Plaintiff's counsel up to the date of the hearing on November 2, 2009. Finally, the parties agreed that, even though Defendants had a pending Appeal of other issues previously ruled upon by this Court, the final hearing of this matter should proceed and a final decision on the above-mentioned issues be rendered.

The Court proceeded to conduct an oral, Evidentiary Hearing to determine the appropriate amount of Defendants' clean-up costs which may be applied, dollar for dollar, to purge Defendants' previously imposed Second Civil Penalty. At the hearing, on November 2, 2009, Plaintiff submitted **Plaintiff's Exhibit 1 (Letter from Assistant Attorney General, Tim Kern, to Larry Zink, Attorney for Defendants, dated October 21, 2009 and all accompanying attachments)** without objection by Defendants and said exhibit was admitted into evidence. The letter, on page four (4), makes reference to **Defendants' Exhibit A (Tri-State Group, Inc. Summary of Costs)**, which had been filed with this Court on August 24, 2009 and rejected, at that time, as an unauthenticated hearsay document, which purported to summarize Defendants' clean-up costs. **The Court has considered Plaintiff's Exhibit 1, and accompanying attachments (various invoices from Defendants as to purported costs expended for clean up after August 27, 2007), as well as the testimony of Abbott Stevenson and Glenn Straub, and hereby finds that Defendants have failed to prove, by a preponderance of the evidence, an accurate authenticated summary of Defendants' purported clean-up costs.**

Although invoices and other documentary proof of materials purchased have been proffered through the testimony of Defendant, Glenn Straub, Defendants have failed to establish, by a preponderance of the evidence, that certain materials were, in fact, purchased and/or certain work performed. **Rather, the testimony establishes guesstimates and/or speculation on the part of Straub as to hours worked and/or exact services provided and/or materials purchased.** Since the burden of production of evidence on the issue reasonable costs expended was placed upon Defendants (to provide authenticated, verified documentation of said costs) at a previous hearing on August 24, 2009, the Court finds that Defendants, Straub and Tri-State, have been provided every opportunity to establish their respective costs which may be applied to purge this Second Civil Penalty and the Court, therefore, has proceeded to render a decision on these issues without further delay.

In accord with the above-stated findings, the Court, having carefully considered the testimony of Abbott Stevenson and Glenn Straub, as well as the admission of **Plaintiff's Exhibit 1**, including its reference to **Defendants' Exhibit A (Tri-State Group, Inc. Summary of Costs, filed with the Court on August 24, 2009)**, as well as the

representations of counsel, on the record, as to various areas of agreement between the parties, hereby finds, as follows:

(I) **Defendants' Second Civil Penalty, assessed from June 4, 2004 (effective date of penalty per Judgment Entry, filed August 27, 2007) thru November 4, 2009, totals three hundred fifty-four thousand eight hundred seventy-five dollars ($354,875.00) (8% of $247,590.00 equals $19,807.00 per year, or $1,650.00 per month. June 4, 2004 thru June 4, 2009 constitutes five years, for a total of $99,035.00. June 4, 2009 thru November 4, 2009 constitutes five months for a total of $8,250.00, or a grand total of $107,285.00 in accrued interest.) Interest shall continue to accrue at the statutory rate in effect on November 4, 2009 thru the date of payment in full by Defendants.**

(II) The Court further finds that **Defendants' Exhibit A (Summary of Costs, filed on August 24, 2009)**, does not constitute admissible evidence of said Defendants' costs expended to accomplish the Court's clean-up objectives. However, since Plaintiff's Exhibit 1 makes reference to Defendants' Exhibit A, the listing of the purported work tasks contained in the Summary of Cost has been considered in light of the testimony by Mr. Straub as to Defendants' purported expenditures. Therefore, in accord with the listing of costs in Plaintiff's Exhibit 1, the listing of Defendants' proffered costs in **Exhibit A (the limited purpose for the use of Defendants' Exhibit A)**, the respective findings of this Court, as to each item of costs, is set forth, as follows:

1. Jack A. Hamilton & Assoc. Inc., Invoice No. 3457, dated March 3, 2009 in the amount of **$50,340.70 (Attachment 1)**. The Court finds that this amount is a reasonable cost and is proximately related to the clean up of the site.

2. Ohio Valley Hydroseeding Ltd. Invoice No. 6073, dated July 17, 2008 in the amount of **$6,197.50 (Attachment 2)**. The Court finds that this amount is a reasonable cost and is proximately related to the clean up of the site.

3. Metcalf & Eddy, Inc. Invoice No. 7015667, dated March 22, 2006, in the amount of **$30,736.50 (Attachment 3)**. Although this amount was incurred prior to the date of the Court's Judgment Entry (August 27, 2007), the Court has determined that this amount is a reasonable cost and proximately related to the clean up of the site.

4. Industrial Lab Analysis Invoice No. 09-04-17, dated May 1, 2009, in the amount of **$1,480.00 (Attachment 4)**. The Court finds that this amount is a reasonable cost and is proximately related to the clean up of the site.

5. Industrial Lab Analysis Invoice No. 08-12-12, dated January 1, 2009, in the amount of **$1,480.00 (Attachment 5)**. The Court has determined that this amount is a reasonable cost and is proximately related to the clean up of the site.

6. Industrial Lab Analysis Invoice No. 08-07-19, dated January 1, 2009, in the amount of **$1,280.00 (Attachment 6)**. The Court has determined that this amount is a reasonable cost and is proximately related to the clean up of the site.

7. Industrial Lab Analysis Invoice No. 08-04-35, dated May 7, 2008, the amount of **$1,480.00 (Attachment 7)**. The Court has determined that this amount is a reasonable cost and is proximately related to the clean up of the site.

8. GeoMechanics, Inc proposal for Ground Water Monitoring, dated March 30, 2005, the amount of $10,250 (Attachment 8). This amount is only a proposal and the Acceptance of Proposal/Authorization to Proceed is not signed by either Defendant. **The Court has determined that there is insufficient proof that these costs were incurred.** Therefore, the Court determines that this amount is not a reasonable cost and is not proximately related to clean up of the site. (It should be noted that the Court has allowed what appears to be reasonable cost in the amount of $10,065.00 for Geo Mechanics, Inc. Project Invoice No. 05036, as such are listed on **page 4, item 17 and/or page 6, item 15.**)

9. Zink, Zink & Zink Co., L.P.A. Invoice No. 9333, dated March 3, 2008, the amount of $450.00 (Attachment 9). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* **The Court finds that Defendants' attorney fees to litigate an alleged breach of contract by Metcalf and Eddy is not a reasonable cost to implement the approved closure and to install and maintain the Ground Water Monitoring System.** Therefore, The Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

10. Zink, Zink & Zink Co., L.P.A. Invoice No. 9392, dated May 29, 2008 the amount of $990.00 (Attachment 10). **In accord with the Court's finding in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

11. Zink, Zink & Zink Co., L.P.A. Invoice No. 9412, dated August 1, 2008 the amount of $6,402.00 (Attachment 11). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* **In accord with the Court's findings in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

12. Zink, Zink & Zink Co., L.P.A. Invoice No. 9418, dated September 3, 2008, the amount of $3,650.00, (Attachment 12). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* **In accord with the Court's findings in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

13. Zink, Zink & Zink Co., L.P.A. Invoice No. 9446, dated October 30, 2008 the amount of $3,534.26 (Attachment 13). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* **In accord with the Court's findings in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

14. Zink, Zink & Zink Co., L.P.A. Invoice No. 9405, dated June 30, 2008, the amount of $7,235.00 (Attachment 14). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* **In accord with the Court's findings in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

15. Zink, Zink & Zink Co., L.P.A. Invoice No. 9377, dated May 1, 2008, the amount of $1,780.00 (Attachment 15). The amount is for attorney fees to litigate the case, *Tri-State v. Metcalf & Eddy of Ohio, Inc.* In **accord with the Court's findings in No. 9 above**, the Court has determined that this amount is not a reasonable cost and is not proximately related to the clean up of the site.

16. Geo Mechanics, Inc. Project No. 07087, dated December 19, 2007, the amount of **$5,400.00 (Attachment 16)**. The Court has determined that this is a reasonable cost and is proximately related to the clean up of the site.

17. Geo Mechanics, Inc. Project No. 05036, dated April 18, 2005, the amount of **$10,000.00 (Attachment 17)**. Although this amount was incurred prior to the Judgment Entry, dated August 27, 2007, the Court has determined that this amount is a reasonable cost and is proximately related to the clean up of the site. **(However, this cost shall be counted one time and shall not be duplicated. See, page 4, item 8 of this Entry.)**

18. Geo Mechanics, Inc. Project No. 05036, dated May 14, 2008 the amount of **$65.00 (Attachment 18)**. The Court has determined that this amount is a reasonable cost and is proximately related to the clean up of the site. **(However, this cost shall be counted one time and shall not be duplicated. See, page 4, item 8 of this Entry.)**

As previously stated, the Court has also reviewed the listing of purported work tasks performed, as such are set forth in **Defendants' Exhibit A (Tri-State Group, Inc.'s Summary of Costs relating to the Dilles Bottom Fly Ash Facility)**, and makes the following determination as to a reasonable amount of costs that may be applied to reduce the Second Contempt Civil Penalty:

1. Subsoil material for re-crowning - 8,000 tons at $5.00 per ton - $40,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has otherwise failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

2. Excavating, trucking subsoil and regarding borrow area 8000 ton at $6.00 per ton - $48,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

3. Labor and equipment for placement and re-grading of subsoil to create a re-sloping and crowning of flyash area - $160 per hour, 10 hours per day - 12 days - $19,200.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

4. Screening topsoil, loader and portable screening plant $15,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

5. Topsoil - $11.15 per ton x 1.3 tons per cubic yard = $214.50; 3703 cubic yard x $14.50 = $53,693.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

6. Trucking - 246 trips at $50.00 per hour - $24,600.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

7. Erosion control - bails of hay - $1,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

8. Rip/rap material to protect grading - $4,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

9. Silt fence - $1,600.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

10. Overhead - 18 months - Management, travel - $48,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

11. Legal expense - $55,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site.

12. Hamilton & Associates closure plan - $56,835.00. **Credit has already been provided to Defendants in the amount of $50,340.70 pursuant to Invoice No. 3457, dated March 3, 2009 (See, page 4, attachment 1).** The Court finds that, without additional documentation, Defendant has failed to demonstrate the additional amount of $6,494.30 to be a reasonable cost even though it may be proximately related to the clean up of the site.

13. William Siplivy P.E. - groundwater monitoring plan. The Court finds that Jack A. Hamilton & Assoc., Inc., Invoice No. 3457, dated March 3, 2009 in the amount of $50,340.70 (See page 4, attachment 1) includes $22,142.00 for Hydrogeologic Investigation Services by William Siplivy. **Such costs have already been approved in Invoice No. 3457, dated March 3, 2009 and, without additional invoice and/or documentation provided by Defendants, the Court finds that these are not reasonable costs even though such work tasks may be proximately related to the clean up of the site.**

14. Ohio Valley seeding - $6,197.00. The Court finds that these costs have been included in Ohio Valley Hydroseeding Ltd. invoice no. 6073, dated July 17, 2008 in the amount of $6,197.50 (See page 4, attachment 2). **Such costs have already been approved and without additional invoice ad/or documentation provided by Defendants, the Court finds that these are not reasonable costs even though such work task may be proximately related to the clean up of the site.**

15. Geomechanics - drilling wells- $10.065.00. The Court finds that Geomechanics, Inc. Project No. 05036, dated April 18, 2005, in the amount of $10,000.00 (See page 6, attachment 17), has already been approved and, without additional invoice and/or documentation provided by Defendants, the Court finds that these are not reasonable costs even though such work task may be proximately related to clean up of the site.

16. Maintaining construction road and road to monitoring wells - $6,000.00. The Court finds that Defendant has failed to submit invoices or other documentation, evidencing the above-mentioned expenditures and, has failed to demonstrate, by a preponderance of the evidence, that such cost is reasonable even though such work task may be proximately related to the clean up of the site

17. Deed restriction - Diminution in value of property - $1,300.00.00. **The Court finds that no legal basis exists for Defendants to suggest that the diminution in the value of the property is a cost to be considered by this Court and applied to a reduction of the civil penalty imposed. Any diminution in value of the property was caused by Defendants disposal of flyash at the site, in violation of Ohio EPA regulations.**

18. Estimated future expenses through completion of closure - $50,000.00. The Court finds that anticipated future expenses do not constitute a reasonable cost, without a factual basis upon which to project such costs. Rather, these suggested future expenses constitute mere speculation on the part of Defendants. Therefore, without additional invoice and/or documentation provided by Defendants, the Court finds that these are not reasonable costs, even though such work task may be proximately related to the clean up of the site.

The Court, having addressed each of the above-mentioned eighteen (18) items, listed in Defendants' Exhibit A, in light of the testimony of Glenn Straub (**it should be noted, at this juncture, that the Court has previously adopted findings as to the credibility of Mr. Straub based upon his prior testimony in this proceeding**), and the failure of Defendants to have otherwise submitted authenticated, documented verifications as to the work actually performed and/or actual costs incurred to clean up the site, at the same time, recognizes that Defendants have expended reasonable efforts to bring about closure of the site, and, as a result, **hereby awards Defendants an additional amount of reasonable costs totaling $50,00.00 for the clean up site, which can be applied to reduce Defendants' Second Civil Penalty.**

In summary, **the Court has approved $108,459.70**, in documented, verifiable costs by Defendants, which shall be applied toward reducing the Second Contempt Civil Penalty of **$354,875.00**. When the above-mentioned **$50,000.00** reasonable value of additional costs for site closure is added to the documented, verifiable costs, **the Court finds that Defendants shall be credited in the amount of $158,459.70. With this reduction, Defendants' Second Civil Penalty totals $196,415.30, with interest accruing at the statutory rate from November 4, 2009 to the date of payment in full.**

The Court hereby recognizes, by this entry, that Defendants now have **two (2) separate and distinct Civil Penalties** pending as a result of this litigation, one of which was compromised, by way of written agreement, leaving a balance of **$194,500.00** as of the date of this Judgment Entry and the second, in the amount of **$196,415.30**, with interest at the statutory rate accruing, effective November 4, 2009. **Defendants are Ordered to pay Defendants' Second Civil Penalty within thirty (30) of the date of this entry or be subject to contempt of court.** Plaintiff is hereby Ordered to file appropriate Judgment Liens with the Clerk of Court, preserving the status of each of the two (2) civil penalties, until such penalties are paid in full.

In the event Defendants would choose to appeal this final decision in regard to the amount of the Second Civil Penalty ($196,415.30), the Judgment of this Court shall not be stayed, unless and until **Defendants file with this Court, a Supersedeas Bond, in the amount of $250,000.00, by a certified surety in this state**, the amount of the Second Civil Penalty and anticipated accrued interest from November 4, 2009 throughout the period of appeal.

This provision for Supersedeas Bond is in accord with the **Ohio Appellate Rule 7(A)** and (B), and is based upon this Court's finding that, at least such amount of bond is necessary to assure and insure that Defendants will comply with the Orders of this Court to pay the civil penalty and all costs herein.

All subject to further Order of the Court.

Date: April 22, 2010

pc: Timothy J Kern, Atty./Pl.
Larry A Zink, Atty./Def.

JOHN M. SOLOVAN, II

JOHN M. SOLOVAN, II - JUDGE