

II. JURISDICTION AND VENUE

2. 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.

III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon Plaintiff and Defendant, their agents, officers, directors, members, 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.

IV. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS

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

5. 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 Defendant for any violations that occur after the entry of this 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, or ordinances.

V. PERMANENT INJUNCTION

6. Defendant is ordered and permanently enjoined to comply fully with R.C. Chapter 3704 and the rules promulgated thereunder.

VI. CIVIL PENALTY

7. Pursuant to and in accordance with R.C. 3704.06, Defendant shall pay a total civil penalty of \$5,000.00 to the State of Ohio within 30 days of the entry of this Consent Order. Such penalty shall be paid as follows:

- a. Defendant shall, within 30 days of receipt of entry of this Consent Order, fund a supplemental environmental project (“SEP”) by making a contribution in the amount of 20 percent—\$1,000.00—of the total civil penalty to Ohio EPA’s Clean Diesel School Bus Program Fund (Fund 5CD0). Defendant shall tender a check payable to the order of “Treasurer, State of Ohio” for \$1,000.00. The check shall specify that such monies be deposited in Fund 5CD0 established by Ohio EPA for the Clean Diesel School Bus Program. The check, together with a letter identifying Defendant, shall be delivered to Karen Pierson 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. 355614.”
- b. Defendant shall pay the remaining 80 percent—\$4,000.00—of the total civil penalty by check payable to the order of “Treasurer, State of Ohio” and delivered within 30 days of entry of this Consent Order to Karen Pierson 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. 355614.”

VII. INTEREST

8. Any civil penalty imposed by the preceding paragraph not paid within 30 days shall be subject to the statutory rate of interest under R.C. 5703.47, as authorized by R.C. 131.02.

VIII. TERMINATION

9. No earlier than 2 years from the date of the Court's entry of this Consent Order, Defendant may move the Court, pursuant to Civ.R. 60(B), to terminate the injunctive relief contained in Section V of this Consent Order. Termination of the provisions in Section V of this Consent Order shall only be effected by order of the Court upon a showing by Defendant that it has been in compliance with the obligations of this Consent Order for the previous 2 year period. Plaintiff takes no position with regard to such motion at this time, and reserves any rights it may have to oppose the motion. Such an order may also be granted upon joint motion of the parties.

IX. RETENTION OF JURISDICTION

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

X. COSTS

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

XI. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

12. Upon signing of this Consent Order by the Court, the clerk is directed to enter it upon the journal. Within 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 Civ.R. 5(B), and note the service in the appearance docket.

XII. AUTHORITY TO ENTER INTO THE CONSENT ORDER

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

IT IS SO ORDERED:



JUDGE FUHRY
GEAUGA COUNTY
COURT OF COMMON PLEAS

DATE

APPROVED:

By: 

By: 

cc GARY L. LIEBERMAN (0000522) ✓
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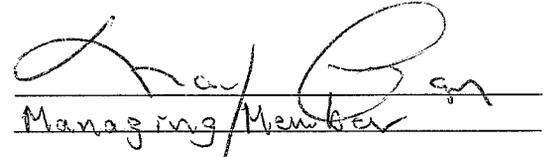
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Counsel for Plaintiff, State of Ohio

By: 
Its: Managing Member

Authorized Representative of Defendant, Newbury Center, LLC