

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV 17 2008

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Universal Plating, Inc.  
478 Morgan Avenue  
Akron, Ohio 44311

Director's Final  
Findings and Orders

Respondent

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Donna Kasser Date: 11-17-08

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Universal Plating, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates an electroplating business, including zinc plating on carbon steel, at a facility located at 478 Morgan Avenue, Akron, Summit County, Ohio (Facility). Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD048418966.
2. Respondent is incorporated to do business in the State of Ohio. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent operates and is currently regulated as a small quantity generator of hazardous waste, however, in the past has operated as a large quantity generator of hazardous waste. Hazardous waste generated at the Facility by Respondent includes or has included spent chromic acid solution (D002, D007), wastewater treatment sludge (F006), spent strip tank solution (D002, D006, D007, D008) and zinc/cyanide plating solution waste (D006, D007, F007).
4. On January 17, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility. Ohio EPA conducted a follow-up inspection on February 2, 2006, to observe sampling of waste streams generated at the Facility and to collect additional information and documentation. Based on these inspections, Ohio EPA has determined Respondent has:
  - a. Unlawfully stored hazardous zinc/cyanide plating solution waste (D006, D007, F007) at the Facility without a hazardous waste storage permit, in violation of ORC §3734.02(E) and (F);
  - b. Unlawfully stored hazardous chromic acid waste (D002, D006, D007) at the Facility without a hazardous waste storage permit, in violation of ORC §3734.02(E) and (F);
  - c. Failed to evaluate all wastes generated at the Facility to determine if they were hazardous waste, in violation of OAC rule 3745-52-11. This violation was abated through sampling the wastes in question on February 2, 2006;
  - d. Failed to keep hazardous waste containers closed at all times when not adding or removing waste, in violation of OAC rule 3745-66-73(A);

- e. Failed to mark satellite hazardous waste accumulation containers with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(C)(1)(b);
  - f. Failed to mark hazardous waste containers with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(A)(3). This violation was abated during the inspection;
  - g. Failed to mark hazardous waste containers with the date accumulation began, in violation of OAC rule 3745-52-34(A)(2). This violation was abated during the inspection;
  - h. Failed to inspect weekly hazardous waste storage areas at the Facility, in violation of OAC rule 3745-66-74;
  - i. Failed to test emergency communications and response systems in the Facility's hazardous waste accumulation areas, in violation of OAC rule 3745-65-33;
  - j. Failed to store universal waste in closed containers, in violation of OAC rule 3745-273-13(D)(1);
  - k. Failed to label universal waste containers, in violation of OAC rule 3745-273-14(E);
  - l. Failed to demonstrate the length of time universal waste had been accumulated at the Facility, in violation of OAC rule 3745-273-15 (C);
  - m. Failed to train employees responsible for handling universal waste, in violation of OAC rule 3745-273-16;
  - n. Failed to post complete emergency information next to the telephone, in violation of OAC rule 3745-52-34(D)(5)(b); and
  - o. Failed to list all applicable waste codes on the Land Disposal Restriction Form for hazardous waste zinc/cyanide plating solution that was shipped to a permitted hazardous waste disposal facility, in violation of OAC rule 3745-270-07(A)(2).
5. By letter dated March 1, 2006, Ohio EPA notified Respondent of the violations discovered during this inspection.

6. By letter dated April 5, 2006, Respondent replied to Ohio EPA's March 1, 2006, letter referenced in Finding No.5. By letter dated May 15, 2006, Ohio EPA notified Respondent that it had abated those violations referenced in Finding Nos. 4.d., 4.e., 4.h., 4.i., and 4.l. The Director has also determined that based upon the Respondent's April 5, 2006 letter, it had also abated the violations referenced in Finding No. 4.m. and 4.n. of these Orders.
7. By letter dated June 13, 2006, Respondent replied to Ohio EPA's May 15, 2006, letter. By letter dated July 11, 2006, Ohio EPA notified Respondent that it had abated those violations referenced in Finding Nos. 4.j., 4.k. and 4.o. of these Orders.
8. Based upon information contained in Respondent's April 5 and June 13, 2006 responses to Ohio EPA, referenced in Finding Nos. 5 and 6 of these Orders, the Director has determined that no further action is needed at this time to abate the violations referenced in Finding Nos. 4.a. and 4.b. of these Orders, because the hazardous wastes have been removed.

## **V. ORDERS**

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule.

1. Respondent shall pay Ohio EPA the amount of \$40,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$32,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
  - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00;
  - b. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00;
  - c. Within 390 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00; and
  - d. Within 570 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus,

Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining \$8,000.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$8,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) pursuant to the following schedule:
  - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,000.00;
  - b. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,000.00;
  - c. Within 390 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,000.00; and
  - d. Within 570 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,000.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of these checks shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 2.a. through 2.d., Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

#### **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

#### **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Hazardous Waste Management  
2110 E. Aurora Road  
Twinsburg, Ohio 44087  
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Director, Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Director, Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
50 West Town Street, Suite 700  
Columbus, Ohio 43215  
Attn: Manager, Compliance Assurance Section

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of hazardous waste units at the Facility, as well as corrective action at the Facility, some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal, or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. Ohio EPA and Respondent each reserve all other rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure of hazardous waste units and corrective action at the Facility by Respondent, which rights Ohio EPA does not waive, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

**XIII. EFFECTIVE DATE**

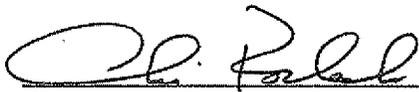
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

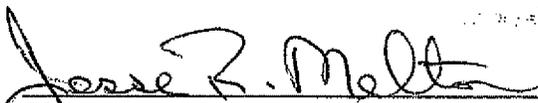
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Director

November 17, 2008  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

**Universal Plating, Inc.**

  
\_\_\_\_\_  
Signature

09-22-2008  
\_\_\_\_\_  
Date

Jesse R Melton  
\_\_\_\_\_  
Printed or Typed Name

Pres.  
\_\_\_\_\_  
Title