DANIEL M. HORRIGAN
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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO, ex rel. MARC DANN ATTORNEY GENERAL OF OHIO Plaintiff, vs. ESLICH WRECKING COMPANY 3525 Broadway Avenue, N.E. Louisville, Ohio 44641, and GENERAL STREET BUSINESS PARK, LTD. 3525 Broadway Avenue, N.E. Louisville, Ohio 44641, and RICHARD M. ESLICH 3525 Broadway Avenue, N.E. Louisville, Ohio 44641, Defendants.	)	CASE NO: 2007-07-4960 JUDGE: ASSIGNED TO JUDGE GALLAGHER CONSENT ORDER

The Complaint in the above-captioned matter having been filed herein, and Plaintiff State of Ohio, by its Attorney General, Marc Dann ("Plaintiff" or "State"), and Defendants Eslich Wrecking Company ("Eslich Wrecking"), General Street Business Park, Ltd. ("General Street")

and Richard M. Eslich ("Mr. Eslich") (collectively referred to as "Defendants") having consented to the entry of this Order;

NOW THEREFORE, without trial of any issue of fact or law, without any admission of any issues of law, liability or fact, and upon 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 Revised Code, Chapters 3704, 3714 and 3734. 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. Defendant Eslich Wrecking is an Ohio corporation engaged in the business of demolition of buildings and other structures, recycling concrete and asphalt, and disposal of construction and demolition debris. Defendant General Street is an Ohio limited liability company which is the current owner of certain real property located at 1 General Street, Akron, Summit County, Ohio (the "Property"). Defendant Mr. Eslich, is the majority shareholder and President of Defendant Eslich Wrecking and the controlling member of Defendant General Street.

3. The provisions of this Consent Order shall apply to and are binding upon the Parties to this action, and, in accordance with Rule 65(D) of the Ohio Rules of Civil Procedure, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Consent Order whether by personal service or otherwise.

III. SATISFACTION OF LAWSUIT

4. The State alleges in its Complaint that the Defendants have violated Revised Code Chapters 3704, 3714 and 3734 and Ohio Administrative Code, Chapters 3745-20, 3745-27 and 3745-400. Defendants deny such allegations. The parties have agreed to resolve the disputed issues in this matter without adjudication of any issues of fact or law. Entry into this Consent Order shall constitute full satisfaction of any civil liability for matters addressed in Plaintiff's Complaint.

5. 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 alleged or referred to 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, or corrective actions. Notwithstanding any provision of this Consent Order to the contrary, Defendants retain all rights, defenses, and/or claims they may have if the State seeks further relief from Defendants in the future, or in any action brought to enforce the terms of this Consent Order.

6. Entering into this Consent Order, the Consent Order itself, or the taking of any action in accordance with the Consent Order and/or any work performed at the Property does not constitute an admission of any liability, wrongdoing or misconduct on part of the Defendants, their officers, employees or agents.

7. Nothing herein shall be construed to relieve Defendants of their obligation to comply with all applicable federal, state or local statutes, regulations, or ordinances. However,

Defendants are not required to apply for or obtain any state permit, license or authorization for the matters resolved herein.

IV. PERMANANT INJUNCTION

8. Defendants agree and are ordered and enjoined to comply with Revised Code, Chapters 3714 and 3734 and the rules promulgated thereunder, including the applicable provisions of Ohio Administrative Code, Chapters 3745-400 and 3745-27 at the Property.

9. Defendants agree and are ordered and enjoined to comply with Revised Code, Chapter 3704 and the rule promulgated thereunder, including the applicable provisions of Ohio Administrative Code, Chapter 3745-20 at the Property.

V. INJUNCTIVE RELIEF REGARDING THE PROPERTY

10. Within 30 days of entry of this Consent Order, Defendants agree to submit to Ohio EPA for approval: (a) a survey of the areas of the Property potentially containing asbestos-containing material resulting from Eslich Wrecking's operations on the Property (the "Property Survey"); and (b) a plan to install a protective physical barrier or cover that assures no emissions to the outside air from the underlying materials (the "Cap") on the areas of the Property designated in the Property Survey as potentially containing asbestos-containing material (the "Property Cap Plan").

11. Within 60 days of Ohio EPA's approval of the Property Survey and Property Cap Plan, Defendants agree to install the Cap.

12. Within 30 days of the approval of the Property Survey by Ohio EPA, Defendant General Street, as the owner of the Property, will grant a new deed to itself, stating in the deed restrictions section that (a) the areas of the Property, as set forth in the Property Survey, contain asbestos-containing material; and (b) the areas are subject to Ohio Administrative Code, Chapter

3745-20 and 40 C.F.R. Part 61, Subpart M. This newly granted deed shall be file with the Summit County Recorder's Office. A copy of the newly granted deed filed with the Summit County Recorder's Office shall be submitted to the Ohio EPA as set forth in paragraph 16 herein.

VI. CIVIL PENALTY

13. Within 30 days of entry of this Consent Order, Defendants are ordered and enjoined to pay a civil penalty of Ninety-Nine Thousand Six Hundred Seventy-Four Dollars ($99,674.00) 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."

VII. STIPULATED PENALTIES

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

(a) For each day of failure to meet a requirement, up to thirty (30) days – Two Hundred Dollars ($200.00) per day for each requirement not met;

(b) For each day of failure to meet a requirement, from thirty-one (31) to ninety (90) days – Four Hundred Dollars ($400.00) per day for each requirement not met;

(c) For each day of failure to meet a requirement, over ninety (90) days -- Six Hundred Dollars ($600.00) per day for each requirement not met.

15. Stipulated penalties due under this Consent Order shall be paid by check or money order, payable to "Treasurer, State of Ohio" and mailed to Merle Pratt or his successor,

Office Manager, at the Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400.

VIII. NOTICES

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

As to Plaintiff:

Ohio Environmental Protection Agency
Central Office
Tom Kalman (or his successor)
50 W. Town St., Suite 700
Columbus, Ohio 43215

As to Defendant:

Richard M. Eslich
3525 Broadway Avenue, N.E.
Louisville, Ohio 44641

with a copy to:

Michael A. Cyphert, Esq.
Walter & Haverfield LLP
The Tower at Erieview
1301 East 9th Street, Suite 3500
Cleveland, Ohio 44114

17. Either Party may change the name or address of its contact person(s) by serving written notice to the other party.

IX. TERMINATION

18. No earlier than one (1) year after the entry of this Consent Order, and after Defendants have paid all civil and/or stipulated penalties that are or may be due, Defendants may move the Court, pursuant to Rule 60(B) of the Ohio Rules of Civil Procedure, to terminate this Consent Order. Plaintiff takes no position with regard to such motion at this time, and reserves

its rights to oppose the motion. Termination of any or all of the provisions of this Consent Order may also be granted upon joint motion of the parties.

X. RETENTION OF JURISDICTION AND WAIVER OF SERVICE

19. The Court will retain jurisdiction of this action for purposes of enforcing this Consent Order during the effective term thereof. Defendants waive service of the Complaint and summons in this action.

XI. EFFECTIVE DATE

20. This Consent Order shall be effective upon the date of its entry by the Court.

XII. COURT COSTS

21. Defendants are hereby ordered to pay all court costs of this action.

XIII. SIGNATORIES

22. 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.

XIV. ENTRY OF CONSENT ORDER AND JUDGMENT BY CLERK

23. Pursuant to Rule 58 of the Ohio Rules of Civil Procedure, 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 current docket.

IT IS SO ORDERED:

7/18/07

Date

Judge, Summit County Court of
Common Pleas

APPROVED BY:
MARC DANN, Attorney General

NICHOLAS J. BRYAN (0079570)
Assistant Attorney General
Environmental Enforcement Section
30 East Broad Street, 25th Street
Columbus, Ohio 43215
Telephone: (614) 466-2766
Facsimile: (614) 466-1926

Attorney for Plaintiff
State of Ohio

MICHAEL A. CYPHERT (0007086)
Walter & Haverfield LLP
The Tower at Erieview
1301 East 9th Street, Suite 3500
Cleveland, Ohio 44114-1821
Telephone: (216) 781-1212
Facsimile: (216) 575-0911

Attorney for Defendants

ESLICH WRECKING COMPANY

By: Richard M Eslich

GENERAL STREET BUSINESS PARK, LTD.

By: Richard M Eslich

RICHARD M. ESLICH

Richard M Eslich