

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
MAY 23 2007

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

Eric Warren, d.b.a.
Henry's Cleaners
11603 Kinsman Avenue
Cleveland, Ohio 44120

:
:
:
:
:
:

Director's Final Findings
and Orders

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: [Signature] Date: 5-23-07

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Eric Warren, d.b.a. Henry's Cleaners ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES

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 Facility (as hereinafter defined) 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 meanings as defined in ORC Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA has determined the following findings:

1. The City of Cleveland, Division of Air Quality ("CDAQ") acts as an agent of Ohio EPA for the Division of Air Pollution Control in Cuyahoga County.
2. Respondent owns and operates a dry cleaning facility ("Facility") located at 11603 Kinsman Avenue, Cleveland, Cuyahoga County, Ohio. This Facility was previously known as Lee's Cleaners. According to the Cuyahoga County Auditor, Respondent took ownership of the Facility on April 12, 2004. CDAQ was notified by Respondent of the name change on September 20, 2005. Respondent is the current Facility owner and was also the

primary contact and responsible party when the Facility was known as Lee's Cleaners. This Facility meets the definition an "air contaminant source" and is subject to Ohio Administrative Code ("OAC") Chapters 3745-21, 3745-31, and 3745-35. As a dry cleaning facility, it is also subject to regulations found in the Code of Federal Regulations ("CFR"), specifically 40 CFR Part 63 Subpart M, which pertain to the National Emission Standards for Hazardous Air Pollutants ("NESHAP"). Respondent uses perchloroethylene, a chemical that is regulated by the NESHAP regulations, during the dry cleaning process.

3. On October 20, 2003, Ohio EPA issued proposed Director's Final Findings and Orders with penalty to Lee's Cleaners for violations of Ohio's air pollution regulations. Specifically, Lee's Cleaners had violated OAC Rule 3745-31-02(A)(1) for operating a dry cleaning machine (a Columbia Ilsa 1035) without first applying for and obtaining a permit to install ("PTI"). Lee's Cleaners also violated OAC Rule 3745-21-09(AA)(4)(d) by failing to maintain records of annual usage of perchloroethylene and of pounds of clothing cleaned.

4. On January 20, 2006, CDAQ conducted an inspection of Respondent's facility. During the inspection, CDAQ discovered that Respondent had installed and was operating a dry-to-dry cleaning machine (a Lindus ML 60) without having applied for and obtained a PTI and a permit to operate ("PTO") from Ohio EPA, in violation of OAC Rules 3745-31-02(A)(1) and 3745-35-02(A), respectively, and also ORC § 3704.05 (G). In addition, CDAQ discovered that Respondent had failed to retain records of fabric dry cleaned, in pounds, with perchloroethylene and the amount of perchloroethylene purchased and used since June 2004, in violation of OAC Rule 3745-21-09(AA)(4)(d) and ORC § 3704.05(G). Respondent also violated 40 CFR Part 63, Subpart M by failing to maintain records of bi-weekly leak inspections, perchloroethylene usage, and the amount of fabric cleaned. Respondent also failed to record and measure the temperature of the perchloroethylene gas-vapor stream of the refrigerated condenser and failed to submit the Initial Report and Compliance Report for Control Requirements to CDAQ, in violation of 40 CFR Part 63. CDAQ sent a notice of violation ("NOV") to Respondent on February 3, 2006 for the above violations.

5. On January 27, 2006, CDAQ received the required permit applications from Respondent. On February 28, 2006, Ohio EPA issued PTI #13-04619 for the Lindus ML 60.

6. On March 9, 2006, Respondent submitted dry cleaning record-keeping documents for calendar year 2006. Respondent was unable to provide the required records from June 2004 through December 2005.

7. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of four thousand dollars (\$4,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment shall be made by official checks made payable to "Treasurer, State of Ohio." The payments shall be paid in installments per the following schedule after the effective date of these Orders:

1. Five hundred dollars (\$500) due within 90 days
2. Five hundred dollars (\$500) due within 180 days
3. Five hundred dollars (\$500) due within 270 days
4. Five hundred dollars (\$500) due within 360 days
5. Five hundred dollars (\$500) due within 450 days
6. Five hundred dollars (\$500) due within 540 days
7. Five hundred dollars (\$500) due within 630 days
8. Five hundred dollars (\$500) due within 720 days

The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

2. A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43216 - 1049

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 Respondent's activities at the 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:

City of Cleveland
Division of Air Quality
1925 St. Clair Avenue
Cleveland, Ohio 44114
Attn: George Baker

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: John Paulian

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. 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



Chris Korleski
Director

Date 5/22/07

Director's Final Findings and Orders
Eric Warren, d.b.a.
Henry's Cleaners
Page 6 of 6

IT IS SO AGREED:

Eric Warren, d.b.a.
Henry's Cleaners

Eric Warren
Signature

7/20/07
Date