

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

FEB 15 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Accubuilt, Inc.
2550 Central Point Parkway
Lima, Ohio 45804

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.

By: Don Lasser Date: 2-15-11

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Accubuilt, 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 the Respondent or of the Facility owned by Respondent 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent manufactures funeral coaches and limousines at its facility located at 2550 Central Point Parkway, Lima, Ohio (Facility). Respondent is a foreign corporation qualified to do business in Ohio on May 4, 1989.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OH0001002781.
4. 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 is a small quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes paint related wastes (D001, D035, F003, F005).
5. On May 18, 2009, Ohio EPA conducted an inspection of the Facility. As a result of this inspection, Ohio EPA determined that Respondent had, inter alia:
 - a. Stored hazardous waste for greater than 180 days without a permit, in violation of ORC § 3734.02(E) and (F);
 - b. Failed to display the required emergency contact information next to the phones, in violation of OAC rule 3745-52-34(D)(5)(b);
 - c. Failed to label a container of hazardous waste in satellite accumulation areas with the words "hazardous waste" or other words identifying the contents, in violation of OAC rule 3745-52-34(C)(1)(b);
 - d. Failed to conduct weekly inspections of hazardous waste storage areas, in violation of OAC rule 3745-66-74;
 - e. Failed to keep containers of universal waste lamps closed, in violation of OAC rule 3745-273-13(D)(1); and

- f. Failed to label/mark containers holding universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E).
6. By letter dated June 2, 2009, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders. This letter also notified Respondent that the violations referenced in Finding Nos. 5.c., 5.e., and 5.f. of these Orders were abated during the inspection.
7. By electronic mail dated June 5, June 22, June 30, and July 15, 2009, Respondent provided documentation in response to Ohio EPA's June 2, 2009, letter referenced in Finding No. 6. of these Orders. Respondent also provided some of the requested information to Ohio EPA via telephone on July 23, 2009.
8. By letter dated July 27, 2009, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.b. and 5.d. of these Orders.
9. Because Respondent will continue to store hazardous waste in the less than 180 day accumulation area and because no releases of hazardous waste were observed, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) and (F) violation referenced in Finding No. 5.a. of these Orders.
10. Based upon a review of financial information received from Respondent on or about May 18, 2010, and September 27, 2010, the Director has determined that Respondent does not possess the financial ability to pay the entire civil penalty settlement proposed in the Director's letter of February 3, 2010.

V. ORDERS

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

1. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$2,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Scott J. Nally, 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:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street
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 the hazardous waste storage area as well as corrective action at the Facility at 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 the hazardous waste storage area and corrective action at the Facility, 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

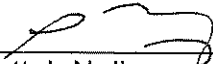
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Scott J. Nally
Director

February 15, 2011

Date

IT IS SO AGREED:

Accubuilt, Inc.



Signature

1/28/11

Date

Lawrence P. Joyce

Printed or Typed Name

PRESIDENT & CEO

Title