

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Papp's Body Shop, Inc.  
20980 St. Clair Ave.  
Euclid, Ohio 44117

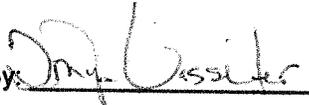
**Respondent**

**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:  Date: 12-22-14

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Papp's Body Shop, 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 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 operates an automotive vehicle collision repair facility located at 20980 St. Clair Ave., Euclid, Cuyahoga County, Ohio 44117 (Facility).
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 is a conditionally exempt small quantity generator of hazardous waste and has been assigned EPA ID number OHD047738711. The hazardous wastes generated by Respondent at the Facility include hazardous waste paint and solvent/lacquer thinners and still bottoms from solvent recycling, which are hazardous for ignitability (D001), methyl ethyl ketone (D035), ignitability (F003) and ignitability and toxicity (F005) as defined in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31. Respondent is also a "small quantity handler of universal waste" and generates spent "lamps," as those terms are defined in OAC rule 3745-273-09.
4. On August 15, 2013, Ohio EPA was informed that Respondent, on multiple occasions, accepted hazardous waste spent solvent/lacquer thinner for the purposes of solvent recovery that was generated off-site at another body shop. This spent solvent/lacquer thinner was characteristic and listed hazardous waste for ignitability (D001), methyl ethyl ketone (D035), ignitability (F003) and ignitability and toxicity (F005) as defined in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31.
5. On August 16 and September 5, 2013, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent, *inter alia*:
  - a. On multiple occasions, established and operated a hazardous waste storage facility without a hazardous waste permit by storing hazardous waste spent solvent/lacquer thinner generated off-site without a permit, in violation of ORC § 3734.02 (E) and (F). During the inspection, Ohio EPA observed approximately 24, 5-gallon containers of the spent solvent/lacquer thinner being stored at the Facility. The majority of these containers were stored in a storage trailer located on the west side of the Facility. No visible releases of waste were observed in the trailer;
  - b. Established and operated a hazardous waste disposal facility without a hazardous waste permit by disposing of hazardous waste still bottoms from the solvent recycling unit, which are at a minimum F005 listed

hazardous waste, onto the ground at the exterior of the west side of the Facility, in violation of ORC § 3734.02(E) and (F);

- c. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;
  - d. Failed to accumulate universal waste spent lamps in a container that is kept closed, in violation of OAC rule 3745-273-13(D)(1); and
  - e. Failed to label/mark universal waste lamps with the words required by the rule, in violation of OAC rule 3745-273-14(E).
6. By letter dated September 12, 2013, Respondent was notified of the violations referenced in Finding No. 5. of these Orders and that the violations referenced in Findings Nos. 5.d. and 5.e. of these Orders were abated during the September 5, 2013 inspection. This letter also requested Respondent to provide documentation of historical off-site management of all hazardous wastes generated at the Facility.
  7. By electronic mail dated September 27, 2013, Respondent submitted a copy of the hazardous waste manifest showing the lawful management of stored spent solvent/lacquer thinner and still bottoms at the Facility in response to the violations referenced in Findings Nos. 5.a. and 5.b. of these Orders.
  8. In response to the violation referenced in Finding No. 5.b. of these Orders and the request for historical management of hazardous waste generated at the Facility as described in Finding No. 6. of these Orders, Respondent, by electronic mail dated October 9, 2013, provided information related to their off-site management of hazardous waste spent solvent from the Facility for calendar year 2002. This was the only historical information Respondent could locate related to the off-site management of hazardous waste generated at the Facility.
  9. On October 10, 2013, Ohio EPA conducted a follow-up compliance evaluation inspection at the Facility. During this inspection, Respondent showed Ohio EPA the area where the listed hazardous waste still bottoms (F005) were disposed of as referenced in Finding No. 5.b. of these Orders. Respondent had removed and containerized approximately 55 gallons of still bottoms and contaminated soil and collected a sample from the containerized waste for analysis. After observing the disposal area, Ohio EPA identified an additional contaminated soil area with paint related waste and requested that Respondent remove and containerize the remaining visually contaminated soil in that location and sample it for the purpose of hazardous waste characterization. Ohio EPA also requested that Respondent

continue to search for additional information regarding the management of hazardous wastes at the Facility since 2002.

10. By letter dated October 16, 2013, Respondent submitted a formal response to the violations referenced in Finding No. 5. of these Orders, including a hazardous waste manifest for the spent solvent and still bottoms as referenced in Finding No. 7. of these Orders, a certification from Respondent that hazardous waste will no longer be accepted from off-site generators, and a statement that Respondent did not ship any hazardous wastes off-site from 2002 until 2013, but accumulated hazardous wastes in drums at the Facility.
11. By electronic mail dated October 18, 2013, Respondent submitted analytical results from wastes generated at the Facility in response to the violations referenced in Findings Nos. 5.b. and 5.c. of these Orders. Specifically, the sample results for the contaminated soil identified during the October 10, 2013 follow-up inspection described in Finding No. 9. of these Orders demonstrated that the contaminated soil exhibited the hazardous characteristic for barium (D005), as defined in OAC rule 3745-51-24. Based upon this information, the Director has determined Respondent established and operated a hazardous waste disposal facility, in violation of ORC § 3734.02(E) and (F), by disposing of paint related waste on the west exterior side of the Facility.
12. By electronic mail dated November 15, 2013, Respondent submitted a statement regarding the generation of hazardous waste paint waste and spent solvent from 2002 until the solvent distillation unit was purchased by Respondent in 2008. This statement indicated that Respondent would empty the paint gun by spraying the contents into the spray booth to avoid generating hazardous waste.
13. By electronic mail dated December 9, 2013, Respondent provided copies of the hazardous waste manifest showing proper management of the containerized hazardous waste soil contaminated with still bottoms (F005) and hazardous waste soil contaminated with paint related wastes (D005) as referenced in Findings Nos. 9. and 11. of these Orders.
14. On March 18, 2014, Ohio EPA conducted a follow-up inspection at the Facility to inspect the area the where listed hazardous waste still bottoms (F005) and paint related hazardous waste contaminated soils (D005) were removed as referenced in Findings Nos. 9. and 11. of these Orders. No remaining signs of releases were present, and the area is underlain by asphalt.
15. By letter dated March 28, 2014, Ohio EPA notified Respondent that based upon the statement from Respondent as referenced in Finding No. 12. of these Orders,

Respondent, *inter alia*, violated ORC § 3734.02 (E) and (F) by disposing of hazardous paint waste to the air by spraying the contents of the paint gun into the booth. This letter also notified Respondent that the violation referenced in Finding No. 5.c. of these Orders is abated.

16. The Director has determined that no further action is required with regard to the hazardous paint waste which was disposed of to the air, as described in Finding No. 15. of these Orders. Due to the dispersment of the hazardous waste constituents by volatilization, and the fact that this activity occurred several years ago, the Director recognizes the impractability for any remedial injunctive relief activity.
17. Based upon the removal and proper management of the accumulated spent solvent/lacquer thinner received from off-site as described in Finding No. 7. of these Orders and that fact that there were no signs of releases in the container storage areas, including inside the building where Ohio EPA observed three five-gallon containers, the removal of still bottoms and contaminated soil as described in Findings Nos. 9., 11. and 13. of these Orders, and the subsequent inspection of the area where the still bottoms and contaminated soil removal occurred as referenced in Finding No. 14. of these Orders, the Director has determined that Respondent has met the closure performance standard requirements of OAC rules 3745-55-11(A) and (B) and 3745-55-78 for the areas referenced in Findings Nos. 5.a., 5.b. and 11. of these Orders and no further action is required to abate the violations referenced in Findings Nos. 5.a., 5.b. and 11. of these Orders.

## **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. Respondent shall pay Ohio EPA the amount of \$14,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734 and 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 \$2,334.00;
  - b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,334.00;

- c. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,333.00;
- d. Within 120 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,333.00;
- e. Within 150 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,333.00; and
- f. Within 180 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$2,333.00.

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, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Facility. *A copy of each check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.*

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check[s] 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 Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Materials and Waste Management  
50 West Town Street  
Columbus, Ohio 43215

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 corrective action at the Facility, sometime 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. 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 right to seek corrective action by Respondent, which right 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.

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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**

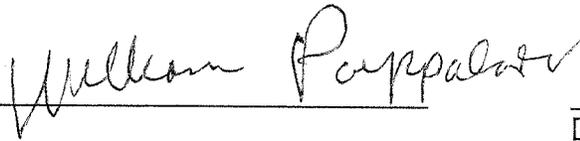


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Craig W. Butler  
Director

**IT IS SO AGREED:**

**Papp's Body Shop, Inc.**

Signature



\_\_\_\_\_  
Date

Dec. 3- 2014

\_\_\_\_\_  
Date

William Pappalardo  
Printed or Typed Name

\_\_\_\_\_  
Title