

**IN THE COURT OF COMMON PLEAS  
TRUMBULL COUNTY, OHIO**

<b>State of Ohio, ex rel. Richard Cordray,</b>	:	
<b>Attorney General of Ohio,</b>	:	
	:	<b>Case No. 07CV1676</b>
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	<b>Judge W. Wyatt McKay</b>
<b>International Steel Services, Inc.,</b>	:	
	:	
<b>and</b>	:	
	:	
<b>Re-Gen, Inc.,</b>	:	
	:	
<b>Defendants.</b>	:	

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**CONSENT ORDER AND FINAL JUDGMENT ENTRY**

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Plaintiff State of Ohio, on relation of its Attorney General, Richard Cordray ("Plaintiff"), at the written request of the Director of Ohio Environmental Protection Agency, having filed a Complaint seeking injunctive relief and civil penalties from Defendants International Steel Services, Inc., a Delaware corporation, and Re-Gen, Inc., a Pennsylvania corporation ("Defendants"), for violations of R.C. Chapter 3704 and the rules promulgated thereunder, and the parties having consented to the entry of this Order,

NOW, THEREFORE, without trial, admission, or determination of any issue of fact or law, and upon the consent of the parties hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

**I. Definitions**

1. As used in this Order, the following terms are defined as follows:

- a. "Air contaminant source" or "source" has the same meaning as set forth in R.C. 3704.01 and Ohio Adm.Code 3745-31-01 and 3745-15-01(C) and (W);
- b. "Consent Order" or "Order" means this Consent Order and Final Judgment Entry;
- c. "Director" means the Director of the Ohio Environmental Protection Agency;
- d. "Facility" means Defendants Re-Gen, Inc.'s hydrochloric acid and iron oxide production facility and all related operations located at 1040 Pine Avenue, S.E., Warren Township, Trumbull County, Ohio;
- e. "Re-Gen" means Defendant Re-Gen, Inc.;
- f. "Title V permit" and "Title V source" shall have the same meaning as set forth in Ohio Adm.Code Chapter 3745-77; and,
- g. "Synthetic minor source" shall have the same meaning as set forth in Ohio Adm.Code 3745-77-01(II).

## **II. Jurisdiction and Venue**

2. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 3704 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court. The Complaint states a claim upon which relief can be granted.

## **III. Persons Bound**

3. The provisions of this Consent Order shall apply to and be 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, successors, and assigns, and those persons in active concert or participation with them who receive actual or constructive notice of this Consent Order whether by personal service or otherwise.

4. Defendants shall give actual or constructive notice of this Consent Order to their officers, agents, servants, employees, attorneys, successors, and assigns, and those persons in active concert or participation with them within seven (7) days of the entry of this Consent Order.

### **III. Satisfaction of Lawsuit and Reservation of Rights**

5. The parties agree that this Consent Order does not constitute an admission, finding, or determination of violations in law or fact at the facility.

6. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability of Defendants to Plaintiff for the claims alleged in the Complaint, which concerns violations of Ohio air pollution control law pursuant to R.C. 3704.05 and the rules adopted thereunder, to wit: operating a Title V source without a permit or timely completing and filing a Title V permit application under Ohio Adm.Code 3745-77-02(A); failing to submit a timely application for a Title V permit under Ohio Adm.Code 3745-77-04(D); failing to submit Title V fee emission reports under Ohio Adm.Code 3745-78-02(A); and failing to pay Title V emission fees pursuant to R.C. 3745.11(C)(1) and R.C. 3704.05(J)(1).

7. This Consent Order shall not be construed to limit the authority of Plaintiff to seek relief for violations not alleged in the Complaint, nor shall this Consent Order bar the State of Ohio from bringing any action against Defendants for any violations that occur after the entry of this Consent Order. Nothing in this Consent Order shall be construed to relieve Defendants of their obligations to comply with all applicable federal, state, or local statutes, regulations, rules, or ordinances.

#### **IV. Injunctive Relief**

8. Re-Gen is ordered and permanently enjoined to comply with R.C. Chapter 3704 and the rules promulgated thereunder with respect to all air contaminant sources at the facility.

9. Re-Gen is further ordered and enjoined to submit to the Ohio Environmental Protection Agency, pursuant to Ohio Adm.Code 3745-31-02(A), a complete, approvable synthetic minor source permit-to-install and operate ("PTIO") application for the facility within sixty (60) days after the facility resumes operations.

10. Re-Gen is further ordered and enjoined to pay emission fees, for calendar years 1999 to 2007, to the Ohio Environmental Protection Agency in the amount of eight thousand dollars (\$8,000.00) upon receipt of an invoice from the Ohio Environmental Protection Agency in the time frame specified therein. Re-Gen shall submit fee emission reports in a form and manner prescribed by the Director, and pay emission fees, beginning with calendar year 2008 and each future year Defendants operate the facility, pursuant to R.C. 3745.11 and Ohio Adm.Code 3745-78-02.

#### **V. Civil Penalty**

11. Pursuant to and in accordance with R.C. 3704.06, Re-Gen is enjoined and ordered to pay a total civil penalty of seventy thousand dollars (\$70,000.00). Of this amount, Re-Gen shall pay fifty-six thousand dollars (\$56,000.00) by delivering two certified checks to the Plaintiff, % Karen M. Pierson or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, payable to the order of "Treasurer, State of Ohio" and indicating in the memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, a reference to "A.G. EAGO No. 305632," pursuant to the following schedule:

- a. the first certified check in the amount of twenty-eight thousand dollars (\$28,000.00) shall be delivered within thirty (30) days of the entry of this Consent Order; and,
- b. the second certified check in the amount of twenty-eight thousand dollars (\$28,000.00) shall be delivered within one (1) year of the entry of this Consent Order.

12. If any portion of the civil penalty due to the Plaintiff pursuant to this Section or Section VI is not paid when due, Re-Gen shall pay interest on the amount past due, without demand by the Plaintiff, accruing from the date of entry of this Consent Order, at the rate and manner specified by R.C. 1343.03(B).

13. Defendants shall not deduct any penalties paid to the Plaintiff, pursuant to this section, Section VI, or Section VII, in calculating their federal, state, or local income taxes.

#### **VI. Supplemental Environmental Project**

14. Re-Gen shall pay the remaining fourteen thousand dollars (\$14,000.00) of the civil penalty, as set forth in Section V, as a supplemental environmental project to the Clean Diesel School Bus Program (Fund 5CD0). Such program has been established by the Director for the purpose of installing, in accordance with Ohio Environmental Protection Agency guidelines, diesel particulate filters for school buses operated by school districts in the State of Ohio. Money in the fund shall be made available to school districts in accordance with a grant established by the Director.

15. The sum set forth in Paragraph 14 shall be paid by delivering two certified checks to the Plaintiff, % Karen M. Pierson or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio

43215-3400, payable to the order of "Treasurer, State of Ohio," and indicating in the memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, a reference to "A.G. EAGO No. 305632," as well as specifying that such monies are to be deposited into Fund 5CD0 established by Ohio Environmental Protection Agency for the Clean Diesel School Bus Program, pursuant to the following schedule:

- a. the first certified check in the amount of seven thousand dollars (\$7,000.00) shall be delivered within thirty (30) days of the entry of this Consent Order; and,
- b. the second certified check in the amount of seven thousand dollars (\$7,000.00) shall be delivered within one (1) year of the entry of this Consent Order.

#### **VII. Stipulated Penalties**

16. In the event that Re-Gen fails to comply with any requirement or deadline contained in this Consent Order, other than the payments specified in Paragraphs 11 and 14 (for which interest is assessed pursuant to Paragraph 12), the stipulated penalties contained herein shall apply for the purpose of coercing compliance. Re-Gen shall be liable for stipulated penalties in accordance with the following schedule for each failure to comply:

- a. for each day of each failure to comply with a requirement or deadline of this Consent Order, up to and including thirty (30) days: one hundred dollars (\$100.00) per day for each requirement or deadline not met;
- b. for each day of each failure to comply with a requirement or deadline of this Consent Order, from thirty-one (31) to sixty (60) days: two hundred dollars (\$200.00) per day for each requirement or deadline not met; and,

c. for each day of each failure to comply with a requirement or deadline of this Consent Order, over sixty (60) days: five hundred dollars (\$500.00) per day for each requirement or deadline not met.

17. All stipulated penalties shall begin to accrue on the day after complete performance is due or the day noncompliance occurs, and shall accrue through the day complete performance occurs or the date complete correction of noncompliance occurs. Stipulated penalties shall accrue regardless of whether Plaintiff has made a demand for payment, but shall not be payable until a written demand for payment is made by Plaintiff, which shall generally describe the noncompliance for which stipulated penalties are demanded.

18. Any payment required to be made under the provisions of this section of the Consent Order shall be made by delivering to Plaintiff, % Karen M. Pierson or her successor, Paralegal, Office of the Attorney General of Ohio, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215-3400, a certified check made payable to the order of "Treasurer, State of Ohio," for the appropriate amount within thirty (30) days from the date of Re-Gen's receipt of a demand from Plaintiff for payment of stipulated penalties. The payment of the stipulated penalty shall be accompanied by a letter briefly describing the type of violation, deadline, or requirement not met and the date upon which the violation of this Consent Order occurred. The memorandum portion of the check, or some other prominent location on the transmittal letter or documentation, shall include a reference to "A.G. EAGO No. 305632."

19. The payment of stipulated penalties by Re-Gen and the acceptance of such stipulated penalties by Plaintiff pursuant to this Section shall not be construed to limit Plaintiff's authority to seek additional relief pursuant to R.C. Chapter 3704, including civil penalties under

R.C. 3734.06, or to otherwise seek judicial enforcement of this Consent Order, for the same violation for which a stipulated penalty was paid or for other violations.

#### **VIII. Guaranty of Performance**

20. Should Re-Gen fail to make any payment required by Section V, Section VI, or Section VII in the time and manner required by those sections, or fail to comply with any injunctive relief in the time and manner required by Section IV, Defendant International Steel Services, Inc. or any successor-in-interest thereof shall immediately become jointly and severally liable for the same payment or injunctive relief that is required to be paid or performed by Re-Gen.

#### **IX. Retention of Jurisdiction**

21. This Court shall retain jurisdiction of this action for the purpose of enforcing this Consent Order.

#### **X. Court Costs**

22. Defendants shall pay the court costs of this action.

#### **XI. Authority to Enter into Consent Order**

23. The signatories for Defendants represent and warrant that they have been duly authorized to sign this document and so bind each respective Defendant to all terms and conditions thereof.

#### **XII. Entry of the Consent Order and Judgment by the Clerk**

24. 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 appearance docket.

IT IS SO ORDERED.

Date: 1/14/09

W. Wyatt McKay  
JUDGE W. WYATT MCKAY

APPROVED:

RICHARD CORDRAY  
ATTORNEY GENERAL OF OHIO

INTERNATIONAL STEEL SERVICES,  
INC.

By:

Robert Kenneth James  
Robert Kenneth James (0078761)  
Gregg H. Bachmann (0039531)  
Rebecca L. Hussey (0079444)  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215-3400  
Telephone: (614) 466-2766  
Facsimile: (614) 644-1926  
Attorneys for Plaintiff State of Ohio

Melvin G. Sander  
Name: Melvin G. Sander  
Title: Sr. Vice Pres.  
International Steel Services, Inc.

RE-GEN, INC.

By:

1-15-09

Copies TO:  
P. Stockman  
G. Bachmann  
K. Komoroski  
R. Hussey  
R. James  
W. Streckmann

International Steel Services  
M. Siekmann  
RE-Gen Inc.  
W. Streckmann

Michael Siekmann  
Name: Michael Siekmann  
Title: President  
Re-Gen, Inc.

Kenneth S. Komoroski  
Kenneth S. Komoroski (0072231)  
Paul K. Stockman\*  
Kirkpatrick & Lockhart Preston  
Gates Ellis LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, Pennsylvania 15222  
Attorneys for Defendants International Steel Services, Inc. and Re-Gen, Inc.

TO THE CLERK OF COURTS: YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT ON ALL COUNSEL OF RECORD OR UPON THE PARTIES WHO ARE UNREPRESENTED FORTHWITH BY ORDINARY MAIL

JUDGE

\*Admitted Pro Hac Vice

2009 JAN 15 AM 9:33  
CLERK OF COURTS  
JAMES R. GIBSON  
CITY OF COLUMBUS  
OHIO 43260-1500