

MAR 16 2005

IN THE COURT OF COMMON PLEAS  
COLUMBIANA COUNTY, OHIO

**ANTHONY J. DATTILIO**  
CLERK (RMH)

STATE OF OHIO, *ex rel.* JIM PETRO,  
ATTORNEY GENERAL OF OHIO,

CASE NO. 05 CV 60

Plaintiff,

JUDGE C. Ashley Pike

vs.

ELJER PLUMBINGWARE, INC.,

CONSENT ORDER

Defendant.

The Plaintiff State of Ohio, by its Attorney General (hereinafter "Plaintiff" or "State of Ohio") and Defendant Eljer Plumbingware, Inc. hereby consent to the entry of this Consent Order in order to resolve the allegations in this matter and pursuant to Chapter 6111 of the Ohio Revised Code (hereinafter "RC").

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

**I. JURISDICTION AND VENUE**

1 The Court has jurisdiction over the parties and the subject matter of this case pursuant to RC Chapter 6111. The Complaint states a claim upon which relief can be granted against the Defendant and venue is proper in this Court.

## **II. PARTIES**

2. The provisions of this Consent Order shall apply and be binding upon the Plaintiff, Defendant, and Defendant's agents, officers, employees, assigns, successors in interest and any person acting in concert or privity with any of them.

## **III. SATISFACTION OF LAWSUIT AND RESERVATION OF RIGHTS**

3. Plaintiff alleges that Defendant has caused various violations of the water pollution laws of the State of Ohio. Defendant denies such allegations. Compliance with the terms of this Consent Order shall constitute full satisfaction of any civil liability to Plaintiff by Defendant for all claims of violations alleged in the Complaint, including the claims for injunctive relief and civil penalties.

4. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against other appropriate persons for claims or conditions alleged in the Complaint. Nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to seek relief against Defendant or any other appropriate persons for claims or conditions not alleged in the Complaint, including violations which occur after the date of filing of the Complaint, nor shall anything in this Consent Order limit the right of Defendant to any defenses it may have for such claims. Similarly, nothing in this Consent Order shall be construed so as to limit the authority of the State of Ohio to undertake any action against any person, including Defendant, to eliminate or mitigate conditions which may present a threat to the public health, welfare or the environment.

**IV. PERMANENT INJUNCTION**

5. Defendant is permanently enjoined and ordered to comply immediately with all applicable provisions of R.C. Chapter 6111 and the rules promulgated under that chapter.

**V. CIVIL PENALTY**

6. Defendant is ordered and enjoined to pay a civil penalty of \$75,000 within sixty (60) days of the effective date of this Consent Order. This civil penalty shall be paid by delivering a corporate check for the appropriate amount, made payable to "Treasurer, State of Ohio," to be delivered to Amy Laws, or her successor, at the Ohio Attorney General's Office, Environmental Enforcement Section, 30 East Broad Street, 25th Floor, Columbus, Ohio, 43215-3428.

**VI. RETENTION OF JURISDICTION**

7. The Court will retain jurisdiction of this action for the purpose of administering or enforcing Defendant's compliance with this Consent Order.

**VII. COSTS**

8. Defendant is hereby immediately ordered to pay the court costs of this action.

**VIII. ENTRY OF CONSENT ORDER AND FINAL JUDGMENT BY CLERK**

9. The parties agree and acknowledge that final approval by the Plaintiff and Defendant, and entry of this Consent Order, is subject to the requirement of 40 C.F.R. § 123.27 (d)(2)(iii), which provides for notice of the lodging of this Consent Order, opportunity for public comment, and the consideration of any public comment. The Plaintiff and Defendant reserve the right to withdraw consent to this Consent Order based on comments received during the public

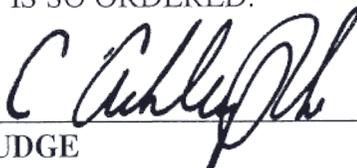
comment period. Defendant shall pay the cost of publishing the public notice within thirty (30) days of receipt of a bill or notice from Ohio EPA.

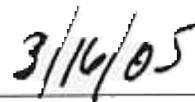
10. Upon the signing of this Consent Order by the Court, the clerk is hereby directed to enter it upon the journal. Within three (3) days of entering the judgment upon the journal, the clerk is hereby directed to serve upon all parties notice of the judgment and its date of entry upon the journal in the manner prescribed by Rule 5(B) of the Ohio Rules of Civil Procedure and note the service in the appearance docket. The date of filing the judgment in the journal shall be the effective date for purposes of this Consent Order.

**IX. SIGNATORIES**

11. Each of the undersigned representatives for 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.

IT IS SO ORDERED:

  
\_\_\_\_\_  
JUDGE  
COLUMBIANA COUNTY  
COURT OF COMMON PLEAS

  
\_\_\_\_\_  
DATE