BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

All Coatings Co. Inc.
1301 North Meridian Road
Youngstown, OH 44509

Roland Brothers
1301 North Meridian Road
Youngstown, Ohio 44509

Wanda Brothers
1301 North Meridian Road
Youngstown, Ohio 44509

Budd Brothers
2525 Market Street
Youngstown, Ohio 44509

Respondents

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.

By: [Signature] Date: 4-10-18

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to All Coatings Co. Inc. (Respondent All Coatings), Roland Brothers (Respondent Roland Brothers), Wanda Brothers (Respondent Wanda Brothers) and Budd Brothers (Respondent Budd Brothers) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) § 3734.13 and 3734.02(G).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and heirs and successors in interest liable under Ohio law. No change in ownership of Respondent All Coatings or of the Facilities shall in any way alter Respondents' 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 thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

2. Respondents All Coatings, Roland Brothers, Wanda Brothers and Budd Brothers are each a “person” as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondents Roland Brothers and Wanda Brothers own real property located at 1301 North Meridian Road, Youngstown, Mahoning County, Ohio, 44509, parcel number 53-187-0-027.00-0 (Meridian Facility). The Meridian Facility has been assigned U.S. EPA identification number OHD981094212.

4. Respondent All Coatings is an active corporation that operates the Meridian Facility as a paint blending and manufacturing facility.

5. Respondent Budd Brothers owns real property located at 2525 Market Street, Youngstown, Mahoning County, Ohio 44509, parcel number 53-053-0-496.00-0 (Market Facility). The Market Facility has been assigned U.S. EPA identification number OHR000205534.

6. In November 2016, Ohio EPA Special Investigations Unit responded to a complaint regarding abandoned paint waste and executed a search warrant at
the Market Facility. Ohio EPA observed and documented approximately 216, 55-gallon drums of paint related wastes inside four semitruck trailers located in the parking lot area. The containers were in poor condition, rusting, bulging and some leaking contents inside the trailer. Also during this investigation, Ohio EPA found information that the paint related waste originated from the Meridian Facility. During the investigation, Ohio EPA collected 22 samples the containers for analysis. On December 7, 2016 Ohio EPA obtained the results from the analysis which indicated the paint related wastes exhibit the hazardous waste characteristic of ignitability (D001), as described in OAC rule 3745-51-21.

7. In March 2017, Ohio EPA’s Special Investigations Unit referred the Market Facility to Ohio EPA’s hazardous waste program for follow-up.

8. On August 10, 2017, Ohio EPA’s hazardous waste program conducted a compliance evaluation inspection at the Market Facility. Ohio EPA documented the same four semitruck trailers in the parking lot area containing approximately 216, 55-gallon drums of ignitable hazardous waste paint and paint-related waste with the containers in the same state as described in Finding No. 6. of these Orders. During the inspection, Respondent All Coatings indicated the hazardous waste paint was acquired approximately 10 years ago from a paint manufacturer that was going out of business. Respondent All Coatings explained the acquired paint material was originally stored at the Meridian Facility with the intention to re-work the paint and then sell the paint. However, Respondent All Coatings described the difficulties encountered with finding customers for the paint and could not afford to properly transport the paint off-site for disposal. All Coatings “abandoned” this paint material by storing the paint material at the Meridian Facility in a manner inconsistent with the normal means of managing valuable products/ingredients, having no known market/disposition for the paint material, and disposing of the paint material by allowing the paint material to be released to the ground. Due to this abandonment at the Meridian Facility, the paint material is a “discarded material” and therefore a “waste” as defined in OAC Rule 3745-51-02. Furthermore, based the sampling of paint wastes, the paint waste was determined to be a “hazardous waste” as the term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03 due to ignitability (D001) and toxicity for methyl ethyl ketone (D035) as described in OAC rules 3745-51-21 and 3745-51-24, respectively. Furthermore, during the inspection, Respondent All Coatings explained that approximately 2 years prior to the inspection date Respondent All Coatings caused the transportation of the ignitable hazardous paint waste from the Meridian Facility to the Market Facility. Based upon this information Ohio EPA determined Respondent All Coatings caused the unlawful transportation of hazardous waste to the Market Facility, an unauthorized facility, and established and operated a hazardous waste facility
without a hazardous waste installation and operation permit in violation ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A).

9. On August 10, 2017, Ohio EPA also conducted a compliance evaluation inspection at the Meridian Facility. Ohio EPA observed and documented the presence of approximately 277, 55-gallon drums and numerous 1-gallon and 5-gallon containers of paint-related waste being stored in four semitruck trailers and inside the building. Three of the trailers showed evidence of paint leakage inside and beneath the trailers due to the poor condition of the containers. Additionally, Ohio EPA observed staining on the ground/asphalt pad where the paint related waste had previously been stored and had been released. Respondent All Coatings explained that the containers formerly stored on the pad were moved to trailers which were eventually transported to the Market Facility. Based upon this information and the information regarding obtaining and management of the paint described in Finding No. 8. of these Orders, Ohio EPA determined, at a minimum Respondent All Coatings had not evaluated any of the paint wastes present at the Meridian Facility, and is therefore in violation of OAC rule 3745-52-11. Furthermore, Respondent All Coatings requested to move the semitruck trailers from the Market Facility back to the Meridian Facility, but Ohio EPA explained it could not authorize that unlawful activity.

10. By Notice of Violation dated August 16, 2017, Ohio EPA notified Respondent All Coatings of the violations of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A) for storage at the Market Facility, and OAC rule 3745-52-11 for waste evaluation at the Meridian Facility referenced in Findings Nos. 8. and 9. of these Orders. In this Notice of Violation Ohio EPA recommended to Respondent All Coatings to evaluate the wastes and address leaking containers and releases to the ground.

11. Based upon the fact that Respondent All Coatings caused the transportation of hazardous waste to the Market Facility as described in Finding No. 8. of these Orders, the Director has determined that Respondent All Coatings violated ORC § 3734.02(F) by transporting hazardous waste to a facility not authorized to receive hazardous waste.

12. By letter dated August 28, 2017, Respondent All Coatings provided a response to Ohio EPA indicating an inventory of containers at the Meridian Facility would be created, and any identified leaking containers would be addressed. To date, no inventory has been received.

13. Due to the conditions at the Market and Meridian Facilities, by letter dated October 3, 2017, Ohio EPA requested U.S. EPA to conduct a removal action of
the containers at the Meridian Facility and the Market Facility.

14. On November 2, 2017, Ohio EPA conducted a follow-up inspection and sampling event at the Meridian Facility due to Respondent All Coatings’ failure to evaluate the wastes as recommended in the Notice of Violation described in Finding No. 10. of these Orders. Ohio EPA observed containers in poor condition and releasing their contents to the ground were still present. During this visit, Respondent All Coatings again indicated it is unable to use the paint for the original purpose, is unable to sell it due to the market conditions since 2008, and does not have funds to dispose of it. Respondent All Coatings again mentioned a desire to transport the semitruck trailers from the Market Facility to the Meridian Facility and Ohio EPA explained they could only be moved by a licensed hazardous waste transporter, and to an authorized facility. Ohio EPA then collected nine samples of the paint related waste stored at the Meridian Facility.

15. On November 2, 2017, Ohio EPA conducted a follow-up inspection at the Market Facility. Ohio EPA observed that deteriorated containers had not been addressed and were still leaking their contents to the ground. Respondent All Coatings had still not evaluated the remaining containers of paint waste.

16. On November 17 and 30, 2017, Ohio EPA received the analytical results of the samples collected from the Meridian Facility as described in Finding No. 14. of these Orders. The results indicated the paint waste exhibits the hazardous waste characteristic of ignitability (D001) and toxicity for methyl ethyl ketone (D035), as described in OAC rule 3745-51-24.

17. As a result of the inspections referenced in Findings Nos. 14. and 15. of these Orders, and the analytical results of the samples collected from the wastes at the Meridian Facility as referenced in Finding No. 16. of these Orders, Ohio EPA determined that Respondent All Coatings, _inter alia:_

   a. Failed to evaluate the remaining wastes at the Market Facility, in violation of OAC rule 3745-52-11; and

   b. Established and operated a hazardous waste facility by storing hazardous paint waste at the Meridian Facility, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). The Meridian Facility does not have a permit for the storage of hazardous waste. The hazardous paint wastes were stored inside the building and inside four semitruck trailers in the parking lot area of the Meridian Facility, establishing these areas as unpermitted hazardous waste management units.
18. By letter dated December 5, 2017, Respondent All Coating was notified of the violations referenced in Finding No. 17. of these Orders.

19. Based upon the information referenced in Findings Nos. 9., 14. and 16. of these Orders, the Director has determined that Respondent All Coatings disposed of hazardous paint waste to the ground at the Meridian Facility in violation of OAC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A), establishing and operating the Meridian Facility as a hazardous waste disposal facility. The areas where paint was disposed to the ground are considered unpermitted hazardous waste disposal units.

20. On December 6, 2017 Respondent All Coatings arranged for the unlawful transportation of two of the semitruck trailers (containing approximately 90, 55-gallon drums of ignitable (D001) hazardous waste) from the Market Facility to the Meridian Facility. The other two semitruck trailers of ignitable hazardous paint waste (approximately 126 containers) remained at the Market Facility.

21. By letter dated December 12, 2017, Respondent All Coatings provided safety data sheets of some of the wastes present at the Meridian Facility and identification of the contents of some containers at the Meridian Facility. This information was not sufficient to resolve the violation of OAC rule 3745-52-11 referenced in Finding No. 11. of these Orders.

22. On January 19, 2018, Ohio EPA received information regarding the unlawful transport of hazardous waste from the Market Facility to the Meridian Facility described in Finding No. 20. of these Orders.

23. On January 26, 2018, Ohio EPA conducted a follow-up inspection at the Meridian Facility. Ohio EPA confirmed the hazardous waste previously stored at the Market Facility had been unlawfully transported to the Meridian Facility where the hazardous waste is now being unlawfully stored. Additionally, Ohio EPA observed that hazardous paint waste was leaking out the trailers that were transported to the Meridian Facility. The previously observed leaking containers referenced in Finding No. 9. of these Orders were still present at this location.

24. On January 26, 2018, Ohio EPA also conducted a follow-up inspection at the Market Facility. Ohio EPA observed the remaining two semitruck trailers in the parking lot area containing ignitable hazardous waste paint and paint-related waste.

25. Based upon the information described in Findings Nos. 20. and 23. of these Orders, Ohio EPA determined that Respondent All Coatings, inter alia:
a. Transported hazardous waste to a facility not authorized to receive hazardous waste, in violation of ORC § 3734.02(F). Respondent All Coatings arranged for the transport of hazardous paint waste from the Market Facility to the Meridian Facility. The Meridian Facility is not authorized to receive hazardous waste from off-site; and

b. Established an unpermitted hazardous waste storage facility at the Meridian Facility, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). The Meridian Facility accepted and is storing the hazardous paint waste received from the Market Facility.

26. By Notice of Violation dated January 26, 2018, Respondent All Coatings was notified of the violations referenced in Finding No. 25. of these Orders. In this Notice of Violation Ohio EPA recommended to Respondent All Coatings to evaluate the wastes and address leaking containers and releases to the ground.

27. By letter dated February 12, 2018, Respondent All Coatings provided a response to the violations referenced in Finding No. 25. of these Orders.

28. On February 15, 2018, Ohio EPA conducted a follow up inspection at the Meridian Facility to observe the status of the leaking containers in poor condition. Ohio EPA documented a substantial release of ignitable (D001) hazardous paint waste from one of the trailers onto the ground.

29. Based upon the observations referenced in Finding No. 28. of these Orders, Ohio EPA determined that Respondent All Coatings unlawfully disposed of hazardous waste to the ground at the Meridian Facility, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Respondent All Coatings responded to this release and removed the visibly contaminated soil and debris into a 55-gallon container.

30. By Notice of Violation dated February 21, 2018, Ohio EPA notified Respondent All Coatings of the violation referenced in Finding No. 29. of these Orders. In this Notice of Violation Ohio EPA recommended to Respondent All Coatings to evaluate the wastes and address leaking containers and releases to the ground.

31. Based upon the information described in Findings Nos. 5., 6. and 8. of these Orders, Respondent Budd Brothers owns a property where a hazardous waste storage facility was established and is being operated without a hazardous waste installation and operation permit in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Owners of hazardous waste storage facilities are required to have a hazardous waste installation and
operation permit. Because neither Respondent Budd Brothers nor Respondent All Coatings have been issued an installation and operation permit for storage of hazardous waste at the Market Facility. The Director has determined Respondent Budd Brothers is in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A).

32. Based upon the information described in Findings Nos. 3., 9., 17.b., 25.b. and 29. of these Orders, Respondents Roland Brothers and Wanda Brothers own a property where a hazardous waste storage facility was established and is being operated without a hazardous waste installation and operation permit in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Owners of hazardous waste storage facilities are required to have a hazardous waste installation and operation permit. Because neither Respondents Roland Brothers, Wanda Brothers nor Respondent All Coatings have been issued an installation and operation permit for storage of hazardous waste at the Meridian Facility, the Director has determined Respondents Roland Brothers and Wanda Brothers are in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A).

33. The Director has determined that no further action is required by Respondents All Coatings, Roland Brothers, Wanda Brothers and Budd Brothers with regard to the violations referenced in Findings Nos. 11. and 25.a. of these Orders.

34. Due to Respondents' establishment and operation of hazardous waste storage and disposal facilities as described in Findings Nos. 9., 17.b., 25.b. and 29. of these Orders, Respondents are required to have a hazardous waste facility installation and operation permit at both the Meridian and Market Facilities and are subject to all general facility standards found in OAC Chapter 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondents are required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

35. The submittal of a Closure Plan which complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including, but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100 in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the
public health or safety or environment. Therefore, the Director finds that the issuance to Respondents of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

V. ORDERS

Respondents All Coatings, Roland Brothers, Wanda Brothers and Budd Brothers (All Respondents) shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 15 days of the effective date of these Orders, All Respondents shall submit documentation showing the hazardous paint wastes that were sampled by Ohio EPA and demonstrated to be hazardous waste have been lawfully transported to an authorized hazardous waste management facility.

2. Within 30 days of the effective date of these Orders, All Respondents shall submit documentation showing they have characterized all remaining wastes pursuant to OAC rule 3745-52-11 and properly caused the off-site transportation of the hazardous wastes to an authorized hazardous waste management facility. Approval of this documentation shall resolve the violations referenced in Findings Nos. 10. and 17.a. of these Orders.

3. All Respondents are hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Market and Meridian Facilities, provided that, within 60 days after the effective date of these Orders, All Respondents comply with the following:

   a) All Respondents shall submit to Ohio EPA for review and approval a Closure Plan for the hazardous waste management units at the Meridian Facility and the Market Facility where hazardous waste was managed as described in Findings Nos. 9. and 17.b., 25.b. and 29. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section VIII. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;

   b) This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of
OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100.

c) The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides All Respondents with a written statement of deficiencies, All Respondents shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA’s written approval of the Closure Plan, All Respondents shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;

d) Within 30 days after approval of the Closure Plan pursuant to Order No. 3.c., All Respondents shall submit a closure cost estimate and documentation demonstrating that All Respondents have established financial assurance and liability coverage for the areas of the Facilities subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and

e) Within 60 days after completion of closure, All Respondents shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Ohio EPA’s acceptance of the closure certification shall resolve the violations referenced in Findings Nos. 9., 17.b., 25.b. and 29. of these Orders.

VI. TERMINATION

All Respondents’ obligations under these Orders shall terminate when All Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that All Respondents have performed all obligations under these Orders and the chief of Ohio EPA’s Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify All Respondents of the obligations that have not been performed, in which case All Respondents shall have an opportunity to address any such deficiencies and seek termination as described above.
The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondents to Ohio EPA and shall be signed by Respondents.

VII. 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 All Respondents.

VIII. 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 Environmental Response and Revitalization
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:
IX. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking corrective action at the Facilities and penalties against All Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require All Respondents to perform additional activities pursuant to ORC Chapter 3734, or any other applicable law in the future. Nothing herein shall restrict the right of All Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of All Respondents. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. APPEAL RIGHTS

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director’s action. The appeal must be accompanied by a filing fee of $70.00, made payable to "Treasurer, State of Ohio," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office,
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Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
30 East Broad Street, 4th Floor
Columbus, OH 43215

XI. EFFECTIVE DATE

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

IT IS SO ORDERED:

Ohio Environmental Protection Agency

[Signature]
Craig W. Butler
Director