January 4, 2019

Century Plating, Inc.
18006 Waterloo Road
Cleveland, OH 44119

Re: Century Plating, Inc.
Director's Final Findings and Orders (DFFO)
DFFO
RCRA C - Hazardous Waste
Cuyahoga County
OHD004178737

Subject: Final Findings and Orders of the Director

Dear Sir:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Century Plating, Inc.

If you have any questions, please contact Sarah Miles at (614) 644-2840.

Sincerely,

Tonya Andrews, Administrative Professional 3
Division of Environmental Response & Revitalization

Enclosure

cc: Zak Kabelen, DERR-CO
Mitch Mathews, DERR-CO
Natalie Oryshkewych, DERR-NEDO
Karen Nesbit, DERR-NEDO
Sarah Miles, Legal
Peter Mooney, Century Plating, Inc.
Gerard Fanta, Gerry.Fanta@yahoo.com
RCRAInfo Data Entry
BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Century Plating, Inc.
18006 Waterloo Road
Cleveland, Ohio 44119

Mr. Gerry Fanta
25107 Wildwood Way Drive
Westlake, Ohio 44145

Respondents

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Century Plating, Inc. (Respondent Century Plating) and Mr. Gerry Fanta (Respondent Fanta) (Collectively known as Respondents) 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 Century Plating 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 Chapters 3734. and 3752. 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 Century Plating and Respondent Fanta are each a “person” as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).

3. Respondent Century Plating is the owner of the real property where Respondent Century Plating formerly operated a metal plating facility located at 18006 Waterloo Road, Cleveland, Cuyahoga County, Ohio 44119 (Century Plating Facility) and had been assigned U.S. EPA identification number OHDO04178737. The Century Plating Facility has not operated since on or about September 22, 2017.

4. Respondent Fanta operated a business that re-sells machinery from platers and unused product located at 3600 Ridge Road, Cleveland, Cuyahoga County, Ohio 44102 (Fantaco Facility).

5. At the Century Plating Facility, Respondent Century Plating generated “hazardous waste” as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. The hazardous waste generated at the Century Plating Facility includes F006 listed hazardous waste plating sludge, as described in OAC rule 3745-51-31, as well as characteristic hazardous waste for toxicity and corrosivity.

6. On November 16, 2017, the Cleveland Fire Department requested Ohio EPA’s assistance during a site walkthrough of the Century Plating Facility. During the walkthrough Ohio EPA discovered that the Century Plating Facility appeared to have ceased operations and there was no power. Numerous plating baths and rinse tanks were observed to be full or partially full, and various unknown chemicals, drums, totes and tanks of wastewater were observed throughout the Century Plating Facility. At the time of the November 16, 2017 inspection, it was unknown whether the fire suppression system was functional.

7. On November 20, 2017, Ohio EPA conducted an announced compliance
inspection of the Century Plating Facility. Ohio EPA confirmed the conditions referenced in Finding No. 6. of these Orders. Furthermore, at the time of the inspection, the basement was observed to have standing water covering the entire floor at an unknown depth. Ohio EPA discovered three 55-gallon containers of F006 listed hazardous waste plating sludge located near the wastewater treatment system that were not labeled or marked with an accumulation start date. Two of the three containers of F006 listed hazardous waste plating sludge were open.

8. Based upon the cessation of operations on or about September 22, 2017, Respondent Century Plating was required to submit a notice of cessation of regulated operations to the Director no later than thirty days after operations ceased.

9. Based upon the results of the inspection referenced in Finding No. 7. of these Orders, and the cessation of operations on September 22, 2017, Ohio EPA determined that Respondent Century Plating, inter alia:

   a. Failed to properly label three containers of F006 listed hazardous waste plating sludge with the words “hazardous waste,” in violation of OAC rule 3745-52-34(A)(3);

   b. Failed to clearly mark on a hazardous waste container the date upon which accumulation began, in violation of OAC rule 3745-52-34(A)(2);

   c. Failed to keep a hazardous waste container closed, in violation of OAC rule 3745-66-73(A); and

   d. Failed to submit a notice of cessation of regulated operations to the Director no later than thirty days after cessation of regulated operations, in violation of ORC 3752.

10. On December 8, 2017, Respondent Century Plating provided photographic documentation showing that the containers of hazardous waste plating sludge referenced in Findings Nos. 7 and 9. of these Orders had been properly labeled, closed and dated.

11. By letter dated December 13, 2017, Ohio EPA notified Respondent Century Plating of the violations referenced in Finding No. 9. of these Orders. Additionally, based upon the documentation provided by Respondent Century Plating and referenced in Finding No. 10. of these Orders, the violations referenced in Findings Nos. 9.a., 9.b. and 9.c., of these Orders have been resolved.
12. OAC rule 3745-51-04(C) states [in part] that hazardous wastes which are generated in a manufacturing process unit, are not subject to regulation under Chapters 3745-52 to 3745-256 or 3745-270 or rules 3745-50-40 to 3745-50-235 of the Administrative Code, until it exits the unit in which it was generated, or unless the hazardous waste remains in the unit greater than ninety days after the unit ceases to be operated for manufacturing. On December 21, 2017, 90 days after Respondent Century Plating ceased operations, the material stored within the process tanks became a waste, and some of the plating baths would be a listed hazardous waste. Because of this, Ohio EPA determined that the process tanks are now subject to the hazardous waste tank requirements, but the tanks do not meet the hazardous waste tank requirements, in violation of OAC rules 3745-66-91 through 66-100.


15. On April 5, 2018, Ohio EPA conducted an inspection of the Century Plating Facility and observed that the hazardous waste was still being stored in the former process tanks. During the inspection Ohio EPA collected samples of the various wastes referenced in Finding No. 6 of these Orders including waste in the former process tanks. Furthermore, Ohio EPA observed that the three containers of F006 listed hazardous waste plating sludge were still stored at the Facility.

16. Based upon analysis of the samples collected as referenced in Finding No. 15 of these Orders, multiple tanks located in the former process line, specifically, the Nickel/Chrome Plating Line, Zinc Plating Line and Cadmium Plating Line were found to contain characteristic hazardous waste due to corrosivity (D002) and toxicity for arsenic (D004), cadmium (D006), chromium (D007) and silver (D011), as described in OAC rules 3745-51-22 and 3745-51-24.

17. Based upon the observations referenced in Finding No 15 of these Orders, and the analytical results of waste samples referenced in Finding No. 16 of these Orders, Ohio EPA determined that Respondent Century Plating, inter alia:

   a. Established and operated an unlawful hazardous waste storage facility by storing hazardous waste as described in Findings Nos. 7. and 16. of these Orders for greater than 90 days and 180 days, respectively, without first obtaining a hazardous waste facility installation and operation permit, in
violation of ORC § 3734.02 (E) and (F). Specifically, the area near the wastewater treatment system where the F006 listed hazardous waste plating sludge is stored in containers at the Century Plating Facility is considered a hazardous waste management unit, and the tanks holding hazardous waste in located in the Nickel/Chrome Plating Line, Zinc Plating Line and Cadmium Plating Line are hazardous waste management units; and

b. Failed to determine if waste in the various tanks, totes and containers was hazardous, in violation of OAC rule 3745-52-11.

18. By letter dated May 31, 2018, Ohio EPA notified Respondent Century Plating of the violations referenced in Finding No. 17. of these Orders. Additionally, based upon the information received from Respondent Century Plating referenced in Finding No. 14. of these Orders, the violation referenced in Finding No. 9.d. of these Orders was resolved.

19. On June 27, 2018, Ohio EPA received a complaint from the Northeast Ohio Reginal Sewer District (NEORSD) concerning a leaking plastic tank and several containers that had been transported to the Century Plating Facility from the Fantaco Facility by Respondent Fanta.

20. On June 29, 2018, Ohio EPA conducted a compliance inspection at the Century Plating Facility, addressed the leaking tank and collected samples of four containers brought to the Century Plating Facility by Respondent Fanta from the Fantaco Facility.

21. On July 17, 2018, Ohio EPA received analytical results of the samples described in Finding No. 20. of these Orders. The analytical demonstrated that the waste in the 400-gallon white poly tote transported to the Century Plating Facility from the Fantaco Facility by Respondent Fanta and stored near the rear of the property is a characteristic hazardous waste due to toxicity for cadmium (D006) and chromium (D007) as described in OAC rule 3745-51-24.

22. Because hazardous wastes were brought and stored at the Century Plating Facility from offsite as referenced in Findings Nos. 19. and 20. of these Orders, Respondent Century Fanta established an unpermitted hazardous waste storage facility (TSDF) by storing hazardous waste generated at the Fantaco Facility at the Century Plating Facility, in violation of ORC § 3734.02 (E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Specifically, the area where the 400-gallon white poly tote is stored at the Century Plating Facility is considered a hazardous waste management unit.
23. Based upon the information referenced in Findings Nos. 17.a. and 22. of these Orders, the Director has determined that Respondent Century Plating is the owner and operator of an unlawful hazardous waste storage facility by owning the Century Plating Facility without first obtaining 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).

24. Based upon the information referenced in Findings Nos. 19., 20. and 21. of these Orders, Ohio EPA determined that Respondent Fanta, inter alia:

   a. Failed to determine if a waste generated and brought to the Century Plating Facility in three tanks and a container was a hazardous waste, in violation of OAC rules 3745-52-11/3745-54-13;

   b. Unlawfully transported a 400-gallon white poly tote containing hazardous waste to a facility not authorized to receive hazardous waste, in violation of ORC § 3734.02 (F);

   c. Established an unpermitted hazardous waste storage facility without first obtaining a hazardous waste installation and operation permit by storing characteristically hazardous waste in the 400-gallon white poly tote in violation of ORC § 3734.02 (E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A). Specifically, the area where the 400-gallon white poly tote was stored at the Century Plating Facility near the rear of the property is considered a hazardous waste management unit;

   d. Failed to prepare a hazardous waste manifest for the hazardous waste transported to the Century Plating Facility, in violation of OAC rule 3745-52-20(A)(1); and,

   e. Failed to clearly mark and identify the contents of waste containers as the owner or operator of a hazardous waste TSDF, in violation of OAC rule 3745-270-50(A)(2)(a).

25. By letter dated August 1, 2018, Ohio EPA notified Respondent Fanta of the violations referenced in Finding No. 24. of these Orders, and that the violations referenced in Findings Nos. 24.a., and 24.d. of these Orders were resolved.


27. On August 28, 2018, Ohio EPA was notified by Respondent Fanta that none of the hazardous waste had been removed from the Century Plating Facility and
conditions were the same that had been noted in previous inspections.

28. On September 28, 2018, Ohio EPA completed a walkthrough of the outdoor area at the Century Plating Facility with Respondent Fanta. During the walkthrough, Ohio EPA observed that the three containers of F006 listed hazardous waste plating sludge were still stored at the Century Plating Facility. Respondent Fanta stated that he would on behalf of Respondent Century Plating would contact a hazardous waste transporter to properly ship the hazardous waste to an authorized facility.

29. On November 5, 2018, the NEORSD visited the Century Plating Facility to conduct a routine inspection.

30. On November 6, 2018, NEORSD spoke via telephone with Respondent Fanta concerning the Century Plating Facility including the site visit referenced in Finding No. 29. of these Orders. Respondent Fanta stated that the three containers of F006 listed hazardous waste plating sludge were still located at the Century Plating Facility and a hazardous waste transporter had been arranged to pick up the hazardous waste for proper transport to a permitted facility. Respondent Fanta did not provide a date for the proper shipment of hazardous waste.


32. Due to Respondents' establishment and operation of a hazardous waste storage facility as described in Findings Nos. 17., 22., 23. and 24. of these Orders, Respondents are required to have a hazardous waste facility installation and operation permit and is 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.

33. 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 Century Plating 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 shall achieve compliance with Chapters 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Within 30 days after the effective date of these Orders, Respondent Century Plating shall submit documentation showing that all waste identified at the Century Plating Facility has been properly evaluated in accordance with OAC rule 3745-52-11 and shipped off-site to an authorized facility. Compliance with this Order shall resolve the violation referenced in Finding No. 17.b. of these Orders.

2. Within 30 days of the effective date of these Orders, Respondent Fanta shall submit documentation demonstrating the lawful transportation of the hazardous waste referenced in Finding No. 21. of these Orders to an authorized facility. Compliance with this Order shall resolve the violations referenced in Findings Nos. 24.b. and 24.e. of these Orders.

3. Respondents are hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Century Plating Facility, provided that, within 30 days after the effective date of these Orders, Respondents comply with the following:

   a. Within 30 days after the effective date of these Orders, Respondents shall submit to Ohio EPA for review and approval a Closure Plan for the hazardous waste management units described in Findings Nos. 17.a., 22., and 24.c. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Erik Hagen, 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 and OAC rule 3745-56-28 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 referenced in Order No. 3.a. and provides Respondents with a written statement of deficiencies, 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;

d. Upon Ohio EPA’s written approval of the Closure Plan, 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;

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

f. Within 60 days after the effective date of closure, Respondents shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Closure certification of the area described in Order No. 2.a., will resolve the violations referenced in Finding Nos., 17.a., 22., 23. and 24.c. of these Orders.

VI. TERMINATION

Respondents obligations under these Orders shall terminate when Respondents certify in writing and demonstrate to the satisfaction of Ohio EPA that 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 Respondents of the obligations that have not been performed, in which case 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 Respondents.

VIII. NOTICE

All documents required to be submitted by Respondents 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
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Division of Environmental Response and Revitalization
50 West Town Street
Director's Final Findings and Orders
Century Plating, Inc.
Page 11 of 12
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

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 Century Plating Facility 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 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 by served upon the Ohio Attorney General's Office 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

Craig W. Butler
Director