

# **EXHIBIT 10**

DIANA ZALESKI  
2002 DEC -5 AM 11:48  
SUMMIT COUNTY  
CLERK OF COURTS

~~DIANA ZALESKI  
2002 DEC 7 3 AM 11:20  
SUMMIT COUNTY  
CLERK OF COURTS~~

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

2002-11-6835

JOSEPH J. PISCAZZI, TRUSTEE )  
JOSEPH J. PISCAZZI TRUST U/A, )  
DATED JANUARY 7, 1997, )  
 )  
Plaintiff, )

CASE NO.

JUDGE

ASSIGNED TO JUDGE SPURER

**JUDGMENT ORDER**

-vs- )  
 )  
CLEVELAND TRENCHER CO. )  
 )  
-and- )  
 )  
METIN AYDIN )  
 )  
-and- )  
 )  
PAULINE AYDIN )  
 )  
Defendants. )

This day came the Plaintiff, by its attorney, and the Defendants, Cleveland Trencher, Metin Aydin, and Pauline Aydin, by their attorney, an attorney at law admitted to practice before this Court, and by virtue of the warrant of attorney included in the Promissory Note attached to the Complaint as Exhibit "A" and executed by Defendant, entered an appearance on behalf of said Defendant, waived the issuance and service of summons and process in this action, and confessed judgment on the promissory note described in the Complaint in the sum of

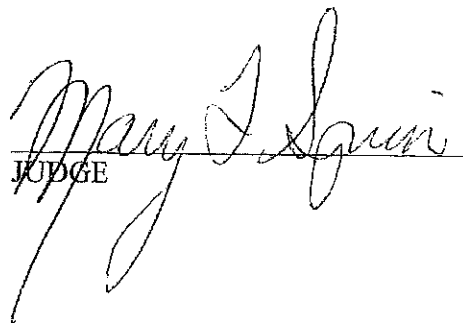
Two Hundred Forty-one Thousand Five Hundred Thirteen and 71/100 Dollars (\$241,513.71), together with daily interest accrual of One Hundred Fourteen and 56/100 Dollars (\$114.56), together with continuing interest under the terms of the note, costs, and such further relief as this Court deems appropriate.

Further answering, Defendant waived and released all errors in the proceedings and any rights of appeal from judgment rendered.

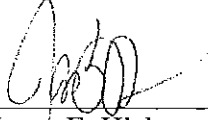
The Court finds that this action was brought in the county in which the Defendant executed the Promissory Note and signed the warrant of attorney authorizing the confession of judgment; further, the Court finds that the Defendant is not in the Armed Forces of the United States; and further, the Court finds that the obligation underlying the Note and Security Agreement is not a consumer loan or consumer transaction as defined in Section § 2323.13 of the Ohio Revised Code.

IT IS THEREFORE ORDERED, that Plaintiff recover of said Defendants, Cleveland Trencher, Metin Aydin, and Pauline Aydin, jointly and severally, in the amount of Two Hundred Forty-one Thousand Five Hundred Thirteen and 71/100 Dollars (\$241,513.71), together with daily interest accrual of One Hundred Fourteen and 56/100 Dollars (\$114.56), together with interest continuing pursuant to the terms of the note, costs, and such further relief as this Court deems appropriate.

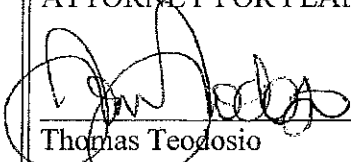
IT IS SO ORDERED.

  
JUDGE

APPROVED BY:



Jason E. Hickman (0064785)  
ATTORNEY FOR PLAINTIFF



Thomas Teozosio  
ATTORNEY FOR DEFENDANT

# **EXHIBIT 11**

Hold  
11/19

DIANA ZALESKI  
2003 NOV 21 AM 11:36  
SUMMIT COUNTY  
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

JOSEPH J. PISCAZZI	)	CASE NO. CV 2003-03 1577
	)	
Plaintiffs,	)	JUDGE SHAPIRO
	)	
-vs-	)	<u>PROPOSED FINDINGS OF</u>
	)	<u>FACT AND CONCLUSIONS</u>
CLEVELAND TRENCHER	)	<u>OF LAW</u>
	)	
Defendants.	)	
	)	

This matter came before the Court for Trial on November 19, 2003 at 9:00 a.m.

The Plaintiff, Joseph J. Piscazzi, Trustee, was present with Attorney Jason E. Hickman, however, the Defendants, Cleveland Trencher Company, Metin Aydin, Pauline Aydin, Ace Dis Ticaret Ltd., Sti. and A.A. & H International were not present. At 9:05 a.m. the Court did contact Pauline Aydin, who had appeared before the Court at the pretrial and had filed Answers as attorney for all of the Defendants. Attorney Aydin indicated to the Court that she had forgotten about the Court Trial date, and the Court informed her that it would proceed. Attorney Aydin indicated to the Court that it would have to proceed without her.

As this matter had been scheduled at the time of the pretrial and as notices had been sent to both counsel of record, the Court commenced the trial.

PRELIMINARY MOTIONS

Plaintiff's counsel did move, pursuant to Ohio Civil Rule 36, to have Plaintiff's Request for Admissions admitted based upon the Defendants failure to respond to the same. The Notice of Service of the Requests for Admission was time-stamped on October 15, 2003.

(See Exhibit H). The Requests for Admission, directed to each of the named Defendants, specifically requires responses within twenty-eight (28) days. The answers were due on or before November 17, 2003, and none had been filed. Therefore, the Requests for Admission are deemed admitted.

#### FINDINGS OF FACT

Based upon the testimony of Joseph J. Piscazzi, Trustee, and the admissions of the Defendant, Plaintiff did loan monies to Defendants Cleveland Trencher, Metin Aydin and Pauline Aydin by virtue of a Promissory Note dated February 14, 2002. (See Exhibit A). In conjunction with that Note, Defendant Cleveland Trencher Company executed a Deed in Trust filed February 15, 2002. (See Exhibit C).

Additionally, in exchange for the loaning of these monies, each of the Defendants did execute Subordination Agreements on February 12, 2002 wherein they each agreed to extinguish their claims and interest in the real property located at 20100 St. Claire Avenue, Cleveland, Ohio upon Defendants Cleveland Trencher Company, Metin Aydin and Pauline Aydin's failure to pay on the promissory note. (See Exhibits D-G). These Subordination Agreements with release clauses are filed with the Cuyahoga County Recorder at Document Nos. 200202150057 (as to The Cleveland Trencher Company and A.A. & H. International), 200202150058 (as to The Cleveland Trencher Company and Metin Aydin), 200202150059 (as to The Cleveland Trencher Company and Ace Dis Ticaret Ltd. Sti.), and 200202150060 (as to The Cleveland Trencher Company and Pauline R. Aydin).

Paragraph 12 of each of the agreements (Exhibits D-G) specifically provides:

12. In the event that Joseph J. Piscazzi Revocable Trust (Lender) moves either directly, or indirectly through Gary Thomas, Trustee of the "Deed in Trust" dated February 12, 2002 between The Cleveland Trencher Company and Gary Thomas, Trustee, to foreclose on the property which is the subject

of the subordinated claims, Creditor covenants and promises that it will immediately and completely release all claims and encumbrances on the property, and Borrower covenants and promises that it will in no way object to or hinder Creditor from any such complete and immediate release, so as to enable Lender to foreclose and obtain clean title for a swift sale.

(See Exhibits D-G).

Further, the Defendants have admitted that Plaintiff has moved for a foreclosure by way of filing a complaint for foreclosure in the Cuyahoga County Court of Common Pleas.

(See Exhibit I, p. 4, #8). The Defendants have admitted to receiving monies from Plaintiff and failing to pay Plaintiff pursuant to the terms of the Promissory Note. (See Exhibit I, p. 5, #9). Finally, the Defendants have admitted that their attorney, Pauline Aydin, did draft and prepare the Subordination Agreements. (See Exhibit I, p. 5, #10).

Further, Plaintiff identified Exhibit J, which was admitted into evidence and which indicated a corporate address of 1755 West Market Street, Akron, Ohio 44313 for Defendant Ace Dis Ticaret Ltd., Sti. and a business relationship with Cleveland Trencher Company.

Exhibits A through J were admitted into evidence.

#### CONCLUSIONS OF LAW

The interpretation of a contractual agreement is a matter of law so long as the terms therein are not ambiguous. *See Ohayon v. Safeco Insurance Company of Illinois*, unreported, C.A. No. 21424, 03-LW-3900 (Ninth Appellate District, 2003). Therefore, as in the instant case, where the contractual terms agreed to by the parties are clear, the interpretation of those terms is a matter of law.

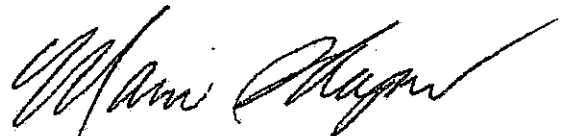
THEREFORE, based upon the express terms of the agreements entered into by and between the Plaintiff, Joseph J. Piscazzi, Trustee, and the Defendants, Cleveland Trencher




Company, Metin Aydin, Pauline Aydin, Ace Dis Ticaret Ltd., Sti. and A.A. & H International, this Court does grant Judgment to the Plaintiff and Order that the following liens and/or encumbrances to the title to the real property located at 20100 St. Claire Avenue, Cleveland, Ohio be now and forever released pursuant to the terms of the Subordination Agreements Exhibits D-G and that Defendants Cleveland Trencher Company, Metin Aydin, Pauline Aydin, Ace Dis Ticaret Ltd., Sti. and A.A. & H International interest to and in said property by virtue of these mortgages be released pursuant to the terms of the Subordination Agreements Exhibits D-G:

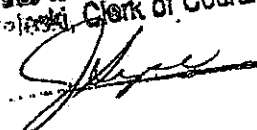
1. Mortgage from the Cleveland Trencher Company to Metin Aydin for \$3,000,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 1 in the Cuyahoga County Records;
2. Mortgage from the Cleveland Trencher Company to Ace Dis Ticaret Ltd., Sti. for \$8,000,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 9 in the Cuyahoga County Records;
3. Mortgage from the Cleveland Trencher Company to Pauline Aydin for \$800,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 25 of the Cuyahoga County Records;
4. Mortgage from the Cleveland Trencher Company to A.A. & H. International for \$1,200,000 filed on October 3, 1997 and recorded at Volume 97-10117 page 53 in the Cuyahoga County Records.

IT IS SO ORDERED.

  
JUDGE MARVIN SHAPIRO

APPROVED BY:

  
Jason E. Hickman  
Attorney for Plaintiff

  
Deputy  
Clerk of Courts  
to be a true copy of the original

# **EXHIBIT 12**

COPY

Hold  
11/19

DIANA ZALESKA  
2003 NOV 21 AM 11:35  
SUMMIT COUNTY  
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

JOSEPH J. PISCAZZI	)	CASE NO. CV 2003-03 1577
	)	
Plaintiffs,	)	JUDGE SHAPIRO
	)	
-vs-	)	<u>JUDGMENT ENTRY</u>
	)	
CLEVELAND TRENCHER	)	
	)	
Defendants.	)	
	)	

This matter came before the Court for Trial on November 19, 2003. The Court adopts the Findings of Fact and Conclusions of Law as its own.

WHEREFORE, based upon the express terms of the agreements entered into by and between the Plaintiff, Joseph J. Piscazzi, Trustee, and the Defendants, Cleveland Trencher Company, Metin Aydin, Pauline Aydin, Ace Dis Ticaret Ltd., Sti. and A.A. & H International, this Court does grant Judgment to the Plaintiff and Order that the following liens and/or encumbrances to the title to the real property located at 20100 St. Claire Avenue, Cleveland, Ohio be now and forever released pursuant to the terms of the Subordination Agreements Exhibits D-G and that Defendants Cleveland Trencher Company, Metin Aydin, Pauline Aydin, Ace Dis Ticaret Ltd., Sti. and A.A. & H International interest to and in said property by virtue of these mortgages be released pursuant to the terms of the Subordination

COPY

Agreements Exhibits D-G:

1. Mortgage from the Cleveland Trencher Company to Metin Aydin for \$3,000,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 1 in the Cuyahoga County Records;
2. Mortgage from the Cleveland Trencher Company to Ace Dis Ticaret Ltd., Sti. for \$8,000,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 9 in the Cuyahoga County Records;
3. Mortgage from the Cleveland Trencher Company to Pauline Aydin for \$800,000 filed on October 3, 1997 and recorded at Volume 97-10118 page 25 of the Cuyahoga County Records;
4. Mortgage from the Cleveland Trencher Company to A.A. & H. International for \$1,200,000 filed on October 3, 1997 and recorded at Volume 97-10117 page 53 in the Cuyahoga County Records.

IT IS SO ORDERED.

  
JUDGE MARVIN SHAPIRO

PURSUANT TO CIVIL  
58 (B) THE CLERK OF COURTS SHALL  
SERVE UPON ALL PARTIES  
NOT IN DEFAULT FOR FAILURE  
TO APPEAR NOTICE OF THIS  
JUDGMENT AND ITS DATE OF  
ENTRY UPON THE JOURNAL

# **EXHIBIT 13**

IN THE EUCLID MUNICIPAL COURT  
CUYAHOGA COUNTY, OHIO

GARY THOMAS, TRUSTEE )

Plaintiff )

vs. )

CLEVELAND TRENCHER CO., et al )

Defendant )

CASE NO.: 06-CV-6-875  
DATE: May 15, 2006

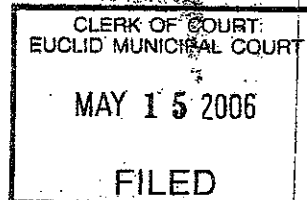
JUDGE DEBORAH A. LEBARRON

**MAGISTRATE'S DECISION**

This matter came before this Court on the 25th day of April, 2006 upon Count One of Plaintiff's Complaint. Attorney Jason E. Hickman appeared on behalf of Plaintiff. Defendant were represented by Attorney Pauline R. Aydin. The Court was advised that the parties were unable to resolve the matter and trial was commenced.

**FINDINGS OF FACT**

1. Plaintiff, Gary Thomas, Trustee, claims ownership to the premises located at 20100 St. Clair Avenue, Euclid, Ohio by virtue of a deed in trust dated February 12, 2002 (Exhibit A).
2. Defendant, Cleveland Trencher Co., currently occupies the premises know as 20100 St. Clair Avenue, Euclid, Ohio.
3. Plaintiff forwarded a letter dated January 31, 2006, to Defendant requesting a rent payment of \$8,000.00 per month commencing March 1, 2006.
4. On March 3, 2006, Plaintiff served Defendant with a three-day notice.
5. There is no lease agreement entered into between the parties to this action.
6. Defendant Cleveland Trencher Co. has no legal interest in the real property that is the subject matter of this action.



## CONCLUSIONS OF LAW

Plaintiff's Count One alleges that Plaintiff is the owner of the real property located at 20100 St. Clair Avenue in Euclid, Ohio, and that Defendant Cleveland Trencher Co. Since the first day of March, 2006, has unlawfully and forcibly detained Plaintiff from possession of the premises.

The Plaintiff maintains that Defendant has failed to make monthly rental payments as outlined in Plaintiff's letter of January 31, 2006. Defendant disputes that it owes that rent as alleged by Plaintiff and asserts that it never agreed to nor entered into a lease arrangement.

The crux of Defendant's argument is that Plaintiff cannot maintain an action in forcible entry and detainer due to the parameters set forth in the deed of trust under which the Plaintiff claims title of the real property.

The deed of trust submitted by both parties clearly evidences a conveyance of the real property located at 20100 St. Clair Avenue in Euclid, Ohio. The deed in trust in paragraph numbered 2, indicates that grantor does hereby expressly grant to trustee the right and power to commence and secure the sale of the property in the event that the grantor defaults on the note, in order to secure payment of the note, including coordination with subordinated creditors to release all claims and encumbrances to facilitate sale with clean title. The Defendant asserts that this language clearly indicates that Plaintiff's exclusive remedy for default on the note is foreclosure.

At law, a deed is conclusively presumed to express the intentions of the parties and this Court must examine the four corners of this document to determine what was conveyed,


The Defendant has asserted that discussions took place secondary to the execution of the deed in trust. However, due to the parol evidence rule those discussions cannot be considered.

This Court believes that Plaintiff received an absolute and indefeasible interest in the subject real property by virtue of the deed in trust. Due to this interest in the real property, Plaintiff has the inherent right to commence an action in forcible entry and detainer.

In the case at bar, Defendant has defaulted on the promissory note referred to in the deed in trust. Defendant by its own admissions has no interest in the real property described in Exhibit A attached to said deed. Therefore, Defendant's argument that Plaintiff's only remedy for default of the promissory note is foreclosure is not well founded.

This court believes that Plaintiff as owner of the property falls within the definition of a landlord under applicable provisions of the Ohio Revised Code. Also, as owner of the real property in question. Plaintiff had the right to seek monthly payments from Defendant who no longer has an interest in the real property.

Therefore, based upon the foregoing this Court determines that Plaintiff has established by a preponderance of evidence that a three-day notice was served on Defendants as required by law, vesting this Court with jurisdiction. This Court further finds that Plaintiff has established by a preponderance of evidence that he is entitled to judgment on Count One contained in his Complaint. It is therefore recommended that judgment be rendered for Plaintiff and a writ of restitution shall issue.



FRANKLIN BENI, MAGISTRATE

**THE PARTIES HAVE FOURTEEN (14) DAYS FROM THE DATE OF THE FILING OF THIS DECISION TO FILE WRITTEN OBJECTIONS WITH THE OFFICE OF THE CLERK OF COURT. ANY SUCH OBJECTIONS MUST BE SERVED ON ALL PARTIES TO THIS ACTION, AND A COPY MUST BE PROVIDED TO THE EUCLID MUNICIPAL COURT.**

**A PARTY SHALL NOT ASSIGN AS ERROR ON APPEAL THE COURT'S ADOPTION OF ANY FINDING OF FACT OR CONCLUSION OF LAW IN THAT DECISION UNLESS THE PARTY TIMELY AND SPECIFICALLY OBJECTS TO THAT FINDING OR CONCLUSION AS REQUIRED BY CIVIL RULE 53(E)(3).**



# **EXHIBIT 14**

Home	Search Database ▶	History ▶	Documents	Information ▶	Public Outreach ▶	Links	Veteran Grave Sites	Forms	Survey	Fees & Filings	Microfilming Center
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3:01:20 PM Thu, Mar 4th

**BEWARE CUYAHOGA COUNTY RESIDENTS** There are 0Your search of **64603001**, from **3/4/2000** to **3/4/2010** return **6** result(s)

Row	APN	Doc. Type	Name	Assoc. Name	Date Recorded	Reference	Parcel	Book/Page
1	<a href="#">200011140065</a>	PTXL	CLEVELAND TRENCHER CO	GLS CAPITAL CUY INC	11/14/2000	200411160395	646-03-001	/
2	<a href="#">200109271010</a>	PTXL	CLEVELAND TRENCHER CO	GLS CAPITAL CUY INC	9/27/2001	200307181178	646-03-001	/
3	<a href="#">200109271010</a>	PTXL	CLEVELAND TRENCHER CO	GLS CAPITAL CUY INC	9/27/2001	200411160428	646-03-001	/
4	<a href="#">200202150061</a>	DEED	CLEVELAND TRENCHER CO	THOMAS GARY	2/15/2002		646-03-001	/
5	<a href="#">200202150062</a>	MORT	CLEVELAND TRENCHER CO	PISCAZZI JOSEPH J	2/15/2002		646-03-001	/
6	<a href="#">200408110010</a>	ML	AAA PIPE CLEANING CORP	CLEVELAND TRENCHER	8/11/2004		646-03-001	/

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Click here to read our [Policy Statement](#).

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CUYAHOGA COUNTY AUDITOR  
**Frank Russo**



Real Property Information

General Information | Transfer History | Land Record | Residential Bldg. Sketch | Taxes/Cert. Values | Search Page

PARCEL ID 646-03-001  
 OWNERS NAME THOMAS, GARY  
 ADDRESS 20100 ST CLAIR AVE  
 CITY EUCLID  
 ZIP 44117

[Field Definitions](#)

**General Information**

OWNER	THOMAS, GARY	UNIT NUMBER	
CLASS	I	TAX DISTRICT	410
LAND USE	3400	OWNER OCCUPIED	
LAND USE 2		TAX ABATEMENT	
ROAD TYPE		NEIGHBORHOOD	21434
WATER		TOTAL BUILDINGS	0
GAS			
SEWER			
ELECTRICITY			


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CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES.  
 PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.

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**CUYAHOGA COUNTY AUDITOR**  
**Frank Russo**



**Real Property Information**

General Information | **Transfer History** | Land Record | Residential Bldg. Sketch | Taxes/ Cart. Values | Search Page

PARCEL ID 646-03-001  
 OWNERS NAME THOMAS, GARY  
 ADDRESS 20100 ST CLAIR AVE  
 CITY EUCLID  
 ZIP 44117

[Field Definitions](#)

Transfer History

[PREVIOUS](#) 

Page 1 of 2

Transfer Date: 15-FEB-02    AFN Number: 200202150061    Receipt: 4252B

Parcel	Deed Type	Vol / Page	Sales Amt	Convey. Fee	Convey. No	Multiple Sale / No. of Parcels
646-03-001	Trustee Ex	00000 / 0000	\$0	\$0		1 / 0

Grantee(s)  
Thomas, Gary.

Grantor(s)  
Cleveland Trencher Co

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CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES.  
 PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.  
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**Real Property Information**

**CUYAHOGA COUNTY AUDITOR**  
**Frank Russo**



Property Search Results

[← Back To Search Page](#)

Click on the PARCEL ID to select the record.


Records per page:

PARCEL ID	OWNERS NAME	HOUSE NUMBER	DIR	STREET NAME	CITY
<a href="#">646-03-001</a>	THOMAS, GARY	20100		ST CLAIR	EUCLID

CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES. PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.

HOME | CONTACT | CUYAHOGA COUNTY HOME

**CUYAHOGA COUNTY AUDITOR**  
**Frank Russo**




**Real Property Information**

General Information | **Transfer History** | Land Record | Residential Bldg. Sketch | Taxes / Cert. Values | Search Page

PARCEL ID 646-03-001  
 OWNERS NAME THOMAS, GARY  
 ADDRESS 20100 ST CLAIR AVE  
 CITY EUCLID  
 ZIP 44117

[Field Definitions](#)

**Transfer History**

[PREVIOUS](#) 

Page 1 of 2

**Transfer Date:** 15-FEB-02    **AFN Number:** 200202150061    **Receipt:** 4252B

Parcel	Deed Type	Vol / Page	Sales Amt	Convey. Fee	Convey. No	Multiple Sale / No. of Parcels
646-03-001	Trustee Ex	00000 / 0000	\$0	\$0		1 / 0

<u>Grantee(s)</u>	<u>Grantor(s)</u>
Thomas, Gary.	Cleveland Trencher Co

---

CUYAHOGA COUNTY ASSUMES NO LIABILITY FOR DAMAGES AS A RESULT OF ERRORS, OMISSIONS OR DISCREPANCIES CONTAINED IN THESE PAGES.  
 PROSPECTIVE PURCHASERS SHOULD CONSULT A REAL ESTATE ATTORNEY AND PURCHASE A TITLE INSURANCE POLICY PRIOR TO THE SALE.  
 © CUYAHOGA COUNTY AUDITOR'S OFFICE

# **EXHIBIT 15**



# UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

## CONSENT FOR ACCESS TO PROPERTY CLEVELAND TRENCHER SUPERFUND SITE

Page 1 of 2

Address of Property: 20100 St. Clair Avenue  
City of Euclid, Cuyahoga County, Ohio 44117

Name: JOSEPH J. PISCAZZI, TRUSTEE OF JOSEPH J. PISCAZZI  
REVOCABLE TRUST

Title: TRUSTEE

I consent to officers, employees, contractors, and authorized representatives of the United States Environmental Protection Agency (U.S. EPA) entering and having continued access to this property for the following purposes:

Securing the property and containing hazardous materials present on the property;

Conducting monitoring and sampling activity;

Preparing for and disposing of hazardous materials;

Performing other actions to investigate contamination on the property that U.S. EPA may determine to be necessary; and

Taking any response action to address any release or threatened release of a hazardous substance, pollutant or contaminant which U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

I realize that these actions taken by U.S. EPA are undertaken pursuant to its response and enforcement responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 et seq.

I realize that U.S. EPA seeks access from the Joseph J. Piscazzi Revocable Trust (the Trust) due to U.S. EPA's information and belief that the Trust holds indicia of ownership in the property, a claim which I dispute on behalf of myself and the Trust.



CONSENT FOR ACCESS TO PROPERTY  
CLEVELAND TRENCHER SUPERFUND SITE

Page 2 of 2

This written permission is given by me voluntarily with knowledge of my right to refuse and without threats or promises of any kind:

My signature and consent to access do not constitute a waiver of any claim or defense I or the Trust may have, nor does it constitute an admission of ownership or liability on my or the Trust's behalf for any purpose whatsoever, including but not limited to any liability under CERCLA Section 107(a), 42 U.S.C. § 9607(a).

Date:

4-27-10

Signature:

Joseph Piscopio Trustee

Mailing  
Address:

2860 MARCIA BLVD.

CUYAHOGA FALLS, OH. 44223

---

# **EXHIBIT 16**



# OldhamKramer

Professional Legal Services

Mark J. Scarpitti  
Direct Line (330) 761-6456  
mscarpitti@oldhamkramer.com

May 26, 2010

Via Federal Express and Email

Mr. Kevin Chow, Esq.  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
C-14J - Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

**\*\*\* NOTE: This correspondence is being submitted as part of ongoing settlement negotiations and is protected from admissibility by Fed. Evid. R. 408 and Ohio Evid. R. 408\*\*\***

RE: Cleveland Trencher Site – 20100 St. Clair Avenue, Euclid,  
Cuyahoga County, Ohio  
My Client: Joseph J. Piscazzi, Trustee, Joseph J. Piscazzi Revocable Trust

Dear Mr. Chow:

This letter will follow up our several telephone conversations and will serve as our initial assessment of the potential liability of my client under CERCLA and to review the complicated procedural history of this matter. It is our hope that once you have an opportunity to review this information and supporting documentation, you will agree with us that: (1) Mr. Piscazzi and the Joseph J. Piscazzi Revocable Trust are *not* the titled owners of the Cleveland Trencher Site at 20100 St. Clair Avenue, Euclid, Ohio; (2) Gary Thomas is not the trustee of the Joseph J. Piscazzi Revocable Trust; (3) because of various errors in the way that Thomas attempted to secure a mortgage on the Cleveland Trencher property, Gary Thomas may also *not* be the titled owner of the property; and (4) any indicia of ownership in the Cleveland Trencher site invested in the Joseph J. Piscazzi Revocable Trust arose out of its role as a lender to Cleveland Trencher, Inc., and thus subject to the safe harbor provisions afforded to lenders under CERCLA.

### Basic Facts

As will be explored in more detail in the following section, it is undisputed that the Joseph J. Piscazzi Revocable Trust loaned \$205,000 to Cleveland Trencher in 2002. The deal was facilitated by Mr. Piscazzi's business associate, Gary Thomas, who assisted in consummating the transaction and in doing much of the leg-work at the time.

Mr. Kevin Chow, Esq.

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May 26, 2010

In exchange for the money, Cleveland Trencher executed a cognovit promissory note in the Trust's favor, personally guaranteed by Cleveland Trencher's owner, Metin Aydin and his wife Pauline Aydin. In addition, Cleveland Trencher granted the Trust a mortgage to secure the loan and executed a Deed in Trust in favor of Gary Thomas in an attempt to further secure the property. As will be explored below, it is the Deed in Trust that has caused much of the confusion as to ownership of the property.

In any event, Cleveland Trencher defaulted on the loan and Thomas and the Trust immediately took steps to protect their ability to collect this debt. As explored in more detail below, many of these attempts were misguided and led to legally problematic results. The basic truth, however, is that Thomas and the Trust ultimately gained some level of control over the facility in an effort to recover Cleveland Trencher's \$205,000 debt to the Trust.

After a number of legal proceedings, which included a failed attempt at foreclosure, Thomas was ultimately "declared" the titled owner of the property by the Euclid Municipal Court in a forcible entry and detainer action brought by Thomas. As a result, Cleveland Trencher was subsequently evicted from the facility. Cleveland Trencher ceased manufacturing operations at that time. Upon taking possession of the property after the eviction, neither Thomas nor the Trust conducted any business or manufacturing activities on-site.

Instead, all efforts were made to use the facility to recover the Trust's investment. For example, Thomas was able to sell certain small pieces of equipment from the facility, which yielded a net result of approximately \$20,000 to the Trust. Thomas then explored selling the site. During that process, Thomas learned that the site would be more attractive to potential buyers if the building were torn-down and the land sold as vacant.

Thomas contracted with Nationwide Demolition Services, LLC to accomplish the tear down. As EPA is aware, Nationwide Demolition discovered asbestos-containing materials in the facility and hired Asbestek, Inc. to remove the same. Asbestek represented to Nationwide that it was affiliated with and protected under the license and insurance of Safe Environmental, Inc., a claim which Safe Environmental now disputes.

In any event, Asbestek apparently undertook its asbestos abatement process in an unacceptable manner and the site was eventually shut-down. Thomas, Nationwide, Asbestek, and Safe Environmental are currently litigating these issues in the Richland County, Ohio Court of Common Pleas, and no decision has yet been made by the Court.



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Neither Piscazzi nor the Trust are involved in that case.

EPA has also asserted that there are barrels with hazardous materials on-site that must be removed. Any materials in the barrels were placed there by Cleveland Trencher in connection with its operations as a manufacturing facility; therefore, Cleveland Trencher would be considered the "generator" of the drummed materials for regulatory purposes. Neither the Trust nor Thomas did anything with the barrels after the eviction. Thomas did undertake to contact a service to obtain a quote to remove the barrels as part of the demolition and asbestos abatement process. The removal, however, had not occurred before the site was shut-down and all operations ceased.

### **Legal and Procedural History of the "Ownership" of the Cleveland Trencher Site**

At the point when title is most clearly discernable, Cleveland Trencher Company owned the subject property, which operated a manufacturing business on the premises. For the purpose of this letter, we will assume that Cleveland Trencher, as part of its operations, utilized certain hazardous materials, which remain on the premises. Further, for the purpose of this analysis, we will assume that my client, Joseph Piscazzi, trustee of the Joseph J. Piscazzi Revocable Trust, may have an interest in the property by virtue of various documents executed by the Cleveland Trencher Company. This section will review Mr. Piscazzi's and the Trust's involvement in the property, focusing upon those issues relevant to whether Mr. Piscazzi or the Trust have sufficient indicia of ownership under CERCLA. With regard to ownership, most of the review to follow will relate to Ohio real estate law.<sup>1</sup>

The current controversy that has arisen between the Trust and EPA relates to an ill-fated loan made by the Trust to the Cleveland Trencher Company. We have attached a promissory note dated February 14, 2002 in the amount of \$205,000 in which the Trust agreed to lend \$205,000 to the Cleveland Trencher Company. To the best of my knowledge, this trust was established for estate planning purposes in 1997.<sup>2</sup> As you can also see from the recitations within the document itself, the trust was formed in 1997, long before the Cleveland Trencher loan.<sup>3</sup>

The Trust secured this loan with a mortgage upon the real property referenced above along with a Cognovit Promissory Note. The manner in which the Trust formalized its interest in the property has caused some confusion. Immediately before the delivery of the promissory note, the debtor, Cleveland Trencher Company, executed a document entitled "Deed in Trust" wherein the property was deeded to a business associate of Mr. Piscazzi known as Gary

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1 Timeline of Events, attached as Exhibit A.  
2 Trust Document, attached as Exhibit N.  
3 Promissory Note attached as Exhibit B.



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Thomas.<sup>4</sup> As grantee, Gary Thomas took the property as trustee. The Deed in Trust, however, does not state or otherwise establish of what "trust" Gary Thomas is purportedly the trustee. It appears, instead, that the use of the word "trustee" is in accordance with the general concept of "deeds in trust," which – as outlined below – are used in other states as alternatives to mortgages.

In any event – and to further confuse matters – the Deed in Trust actually references the note and a related mortgage upon the property. In fact, the Deed in Trust expressly states that the deed is made to secure the interest of the Joseph J. Piscazzi Trust. Contemporaneous to the execution of the note, Cleveland Trencher Company also executed and delivered a mortgage in favor of the Trust.<sup>5</sup> The Deed in Trust and mortgage were both recorded on February 15, 2002, with the Deed in Trust being recorded immediately before the mortgage.

As outlined above, the form of this transaction has caused considerable confusion and is legally problematic under Ohio law. This is because Ohio is not what is commonly called a "deed of trust" state. Generally, there are two ways to perfect a security interest in a parcel of real property. Certain states recognize deeds of trust (which creates a mechanism by which real property is deeded to a trustee, who holds it until such time as the loan has been repaid. If and when the loan is repaid as agreed, the trustee then conveys that property back to the original owner). The more common method – and the one utilized in the State of Ohio -- is to simply have the owner execute a mortgage, which acts as an encumbrance upon the property. Unlike a deed of trust, the debtor remains the titled owner of the property. Thus, the most significant difference between the deed of trust mechanism and the mortgage mechanism is that title actually conveys to the secured creditor in a deed of trust, whereas no title transfers in the mortgage process.

Unfortunately, it appears that whoever crafted these documents for the Piscazzi Trust attempted to do both a deed of trust and a mortgage, which has caused considerable confusion as to the nature of the transaction – as well as an Ohio real estate law quagmire. In addition, since the lender happens to be a trust, the deed of trust causes confusion in that at first glance it appears that "Gary Thomas, trustee" is the trustee of the Piscazzi Trust. According to the trust documents, however, Mr. Thomas is not and has never been the trustee of the Piscazzi Trust. Instead, Thomas' designation as "trustee" comports with the designation of "trustee" that goes with Deeds in Trust. In other words, he was holding title of the property "in trust" until Cleveland Trencher paid off the debt to the Piscazzi Trust, and not as the trustee of any actual trust.

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<sup>4</sup> Deed in Trust attached as Exhibit C.

<sup>5</sup> Mortgage attached as Exhibit D.



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Shortly after advancing the sums pursuant to the note, the Joseph J. Piscazzi Trust, as lender, declared a default and reduced the note to cognovit judgment in Summit County on December 5, 2002. On March 11, 2003, the Piscazzi Trust brought an action for breach of contract and for declaratory judgment seeking the removal of certain liens on the subject property created by the Cleveland Trencher Company and/or the principals of the Cleveland Trencher Company. These liens were intended to be subordinated to the interest of the Piscazzi Trust, and the action sought to have these liens removed.<sup>6</sup>

Shortly after commencement of the Summit County declaratory action, the Piscazzi Trust brought a foreclosure action in Cuyahoga County on June 20, 2003.<sup>7</sup> The foreclosure action is styled as a typical mortgage foreclosure action citing the breach of the mortgage loan and seeking foreclosure. It appears that Gary Thomas was named as a defendant in order to extinguish any cloud on the title created by the deed of trust.

On November 21, 2003, the Summit County court ruled in favor of the Piscazzi Trust in the declaratory action and entered an entry releasing several liens upon the subject property.<sup>8</sup> Pursuant to the final judicial report filed in the Cuyahoga County action, the judgment entry from the Summit County action, which purportedly canceled the various mortgages, was recorded in Cuyahoga County during the pendency of the foreclosure action.<sup>9</sup> It is unclear from our review as to why counsel for the Piscazzi Trust chose to bring these actions separately.

In any event, on January 19, 2006, the Cuyahoga County Court refused to enter judgment in the foreclosure action. It noted that the Deed in Trust naming Thomas as the titled owner was executed and recorded before the mortgage. The Court reasoned, therefore, that at the time that the mortgage was executed, the grantor, the Cleveland Trencher Company, no longer had title to the property and could not grant a valid mortgage. Sometime later, the court ordered the Piscazzi Trust to amend its Complaint and, when this was not done, it dismissed the matter without prejudice on December 20, 2006.<sup>10</sup>

We presume that the reason for the failure to prosecute the foreclosure action was related to the Piscazzi Trust's decision to bring a separate action for eviction. The reasoning, we think, was that if the courts were going to decide that Gary Thomas was the titled owner of the

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6 Docket Entry of Joseph J. Piscazzi, Trustee, et al. v. Cleveland Trencher, Inc., Summit Case No. CV 2003 03 1577, attached as Exhibit E.

7 Docket Entry of Joseph J. Piscazzi, Trustee, et al. v. Gary Thomas, Trustee, Cuyahoga Case No. CV 03 503827, attached as Exhibit F.

8 Joseph J. Piscazzi, Trustee, et al. v. Cleveland Trencher, Inc., Summit Case No. CV 2003 03 1577, Judgment Entry, attached as Exhibit G.

9 Preliminary Judicial Report, attached as Exhibit H; appurtenant entries attached as Exhibits I and J.

10 Entries from Cuyahoga County, attached as Exhibits K and L.



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property, they would simply rely upon that assumption to evict the Cleveland Trencher Company from the premises.

As such, Thomas filed an eviction action against Cleveland Trencher on March 23, 2006 in the Euclid Municipal Court. The magistrate in that action found that Gary Thomas, as trustee, was the owner of the premises and entitled to a writ of restitution. The court noted that the Cleveland Trencher Company had defaulted on its promissory note.

It is our opinion that the adjudicating courts reached legally erroneous decisions in regard to the issue of ownership of the Cleveland Trencher property. This is not surprising in light of the fact that while deeds of trust were at one time used in Ohio, the Ohio Revised Code, at §5302.01, and the general code which preceded it, recognize various forms of statutorily recognized conveyances, none of which include a deed of trust. The statutorily recognized form for an interest in property held for security of a loan in Ohio is a mortgage.

For nearly one hundred years, the typical way of evidencing such an interest in Ohio has been accomplished by mortgage. There is little or no contemporary case law involving deeds of trust – and none since deeds of trust were abrogated by the Ohio Revised Code.

In any event, it is clear that the deed of trust in this case was intended as a form of security, as it references the note and the mortgage within the body of the deed of trust. In addition, the deed of trust clearly indicates that it will be “released” upon the full payment of the debt. This arrangement is clearly recognized as a form of security interest, which is not intended to vest title to the property in the creditor. As explained by the Ohio Supreme Court in *Hoffman v. Mackall*, (1855), 5 Ohio St. 2d 124:

There is a well-settled distinction between an absolute deed of trust and a deed of trust in the nature of a mortgage; the one is conditional and defeasible; the other is unconditional and indefeasible for the purposes of the trust.

*Id.* at 124.

Traditionally, such deeds in trust in the nature of a mortgage are treated as mortgages under Ohio law. As explained in *National Bank of Columbus v. Tennessee Coal, Iron and Railroad Co.* (1900), 62 Ohio St. 564:

Where a vested interest remains in the grantor of a deed of trust clause, such deed, as to the rights of third persons, is a mortgage, and is required to be recorded as such.

*Id.* at 569. See also, *Martin v. Alter* (1884), 42 Ohio St. 94.





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Thus, Ohio law traditionally treats deeds of trust, in the nature of a mortgage, as mortgages. In fact, this treatment has been codified. One of the statutory forms for mortgages is the open-end mortgage, which is recognized in Ohio Rev. C. §5301.232. This statutory form creates the ability to create a mortgage which secures payment of funds which may be advanced after the mortgage has been established. Ohio Rev. C. §5301.232(E)(1) includes a definition of mortgage:

“Mortgage” includes a mortgage deed of trust or other instrument in the nature of a mortgage.

Therefore, under the Ohio Revised Code, a deed of trust in the nature of a mortgage is considered to be a mortgage as a matter of law. This, combined with the long recognized principle that contracts which are executed contemporaneously are treated as if they are a single document, forces the conclusion that the deed in trust and mortgage utilized in this matter should have been treated as a single mortgage document. Both the Cuyahoga County Court and the Euclid Municipal Court, therefore, erred in determining that Gary Thomas was vested with title to this property.

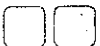
The matter of *Commerce-Guardian Bank v. Catawba Cliffs Beach Club* (1936), 54 Ohio App. 437, involves a similar situation. The court held as follows:

A conveyance of real estate to a trustee to secure payment of bonds issued for the construction of a building on real estate of the grantor **does not convey absolute title** so as to make the trustee owner of the premises under foreclosure.

*Id.* at syllabus ¶1 (Emphasis added).

Based on this authority, as well as the form and substance of the underlying documents, one can only conclude that neither Gary Thomas nor the Piscazzi Trust obtained title the subject premises. The documents executed were intended to create a security interest in the nature of a mortgage, and the unusual nature of the transaction notwithstanding, the courts should have recognized the intent and substance of the transaction.

Based upon this analysis, therefore, one could argue that title to the property remains vested in the Cleveland Trencher Company, which has a statutory right to redeem its mortgage until such time as a decree of foreclosure has been rendered by a court of competent jurisdiction. There is substantial case law in Ohio that stands for the proposition that a debtor's statutory and equitable right of redemption cannot be abrogated as part of the original transaction. These cases generally involve a lender that attempts to shortcut the foreclosure process by requiring the debtor to deliver a deed in lieu of foreclosure at



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the time of the execution of the mortgage. Such deeds are deemed to be invalid. See, e.g., Panagouleas Interiors, Inc. v. Silent Partner Group, Inc., 2002-Ohio-1304; Hendrickson v. JGR Properties, Inc., 2008 -Ohio- 6192; and Ohio Director of Transp. of State v. Eastlake Land Dev. Co. 2008 -Ohio- 3013, noting that any mechanism that seeks to shortcut the statutory and procedural protections of the foreclosure process are disfavored.

Mr. Piscazzi relied on others to properly secure his loan to Cleveland Trencher. Unfortunately, he was the victim of ineffective legal work in this regard. What is more, he has no understanding as to how or why both a deed in trust and a mortgage were prepared and recorded. He simply wanted to secure his loan to Cleveland Trencher with a note and mortgage. As such, we cannot speak to why the Deed in Trust was used or what the drafter's intent was (perhaps Gary Thomas could shed light on this). However, the practical result of the improper use of the Deed in Trust was to deny the Cleveland Trencher Company certain Ohio statutory protections associated with the mortgage process including the equity of redemption and to prevent the Piscazzi Trust from adequately foreclosing on the property to clear this rather cloudy title.

The next question becomes what force of law do the erroneous decisions currently in place have on this matter. The response is two-fold. As for the foreclosure action, since the Court dismissed it without prejudice before completion, the Court in that action has not determined anyone's rights in regard to the property. The only court to make that determination was The Euclid Municipal Court, which ruled that title to the property is vested in Gary Thomas.<sup>11</sup> The Euclid Municipal Court case was, however, merely a forcible entry and detainer action (i.e. an eviction case). Generally, forcible entry and detainer actions determine only the right to possession; such actions do not determine rights to title.

The municipal court, therefore, is not a court of competent jurisdiction to decide the issue of ownership. While the Euclid Municipal Court made a judicial finding that Gary Thomas, as trustee, was the titled owner and entitled to a writ of restitution, this conclusion was arguably in error. The Court did not need to reach the issue of Thomas' titled ownership.

A forcible entry and detainer action merely requires the plaintiff to prove an interest in the property sufficient to support a right of possession -- it does not require that a court decide ownership in order to allow eviction. For example, a tenant could bring such an action against a sub-tenant seeking eviction. To succeed, the plaintiff in such a case would only need to prove an interest giving it superior right of possession to the sub-tenant. The tenant need not prove or otherwise establish ownership.

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<sup>11</sup> Exhibit M.



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In conclusion, and despite the confusing nature of the above-referenced transactions, it is certain that under Ohio law, the Court should have simply treated the Deed in Trust as a mortgage – thus providing the Piscazzi Trust and/or Gary Thomas with a mortgage interest, NOT title. It was clearly erroneous for the Euclid Municipal Court to declare Thomas the titled owner. After sorting through this confusing legal and procedural quagmire, which the Court would have to do in an action brought against Thomas and the Trust by EPA, the result is likely to be that Cleveland Trencher still owns the site and Thomas and/or the Piscazzi Trust only have an as-of-yet un-foreclosed upon mortgage interest in the property.

#### Indicia of Ownership and CERCLA

Setting aside the significant issues raised above regarding ownership of the property, certain facts are beyond dispute: (1) the Piscazzi Trust loaned \$205,000 to Cleveland Trencher; (2) the Piscazzi Trust attempted to secure this loan through a mortgage on the subject real estate; (3) Cleveland Trencher and its guarantors defaulted on the loan; (4) the Piscazzi Trust is not the titled owner of the property on any deed; (5) the Piscazzi Trust and its business associate, Gary Thomas, asserted creditor's rights against the real estate; and (6) any ownership interest or indicia of ownership vested in Thomas or the Piscazzi Trust arose solely out of their role as a secured creditor.

The undisputed facts of this case fit directly into the CERCLA safe-harbor provisions for lenders. As you know, CERCLA "authorizes private parties and EPA to bring civil actions independently to recover their costs associated with the cleanup of hazardous wastes from those responsible for contamination." Kelley v. Environmental Protection Agency, et al., 15 F.d 1100, 1103 (1994), citing, 42 USC § 9607(a). "CERCLA generally imposes strict liability on, among others, all prior and present 'owners and operators' of hazardous waste sites." Id., citing § 9607(a)(1).

As you know, "Congress created a safe harbor provision for secured creditors, however, in the definition of 'owner or operator,' providing that 'such term does not include a person, who without participating in the management of a ... facility, holds indicia of ownership primarily to protect his security interest in ...the facility.'" Id., citing, § 9601(20)(a).

What is more, an "owner or operator does not include a person that is a lender that did not participate in management of a ... facility prior to foreclosure, notwithstanding that the person --- (I) forecloses on the ... facility; and (II) after foreclosure, sells, re-leases ..., or liquidates the ... facility, maintains business activities, winds up operations, undertakes a response action under section 9607(d)(1) of this title..., or takes any other measure to preserve, protect, or prepare the ... Facility prior to sale or disposition." 42 USCA §



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9601(E)(i) & (ii).

In light of the facts outlined above, it is beyond dispute that any indicia of ownership vested in Thomas and/or the Trust arose solely out of a security interest. In addition, any actions taken by Thomas on-site following the eviction were taken to preserve, protect, or prepare the facility prior to sale.

It is clear, therefore, that irrespective of a Court's ruling on titled ownership, the Trust and Thomas are entitled to protection under the CERCLA lender safe-harbor provisions. Accordingly, we feel strongly that neither the Trust nor Thomas would have any CERCLA liability in this matter.

#### Other Considerations

My client, Joseph J. Piscazzi, is 77 years old and a retired businessman. Mr. Piscazzi has serious health problems including cancer and a severe heart condition. The recent involvement of EPA, as well as the fact that he's already lost nearly \$200,000 on this deal, have caused and are causing him a significant amount of stress.

#### Settlement

Based on the cloudy nature of the title and the CERCLA lender safe-harbor provisions, we submit that Mr. Piscazzi would ultimately prevail in a lawsuit brought by EPA against him in connection with the Cleveland Trencher site. That aside, Mr. Piscazzi recognizes the time and expense associated with this type of litigation, and for those economic reasons, and considering his health and peace-of-mind, he desires to explore a reasonable resolution with EPA at this time.

With that in mind, we would like to explore a compromise with EPA that would involve Mr. Piscazzi and the Trust agreeing to perform certain defined environmental clean-up work at the site in exchange for a full release of liability from EPA along with contribution protection. Particularly, we would like to explore the removal of the drums on-site. We submit that EPA has other PRPs with potential liability for the asbestos removal (particularly, Nationwide Demolition, Asbestek, and Safe Environmental). Likewise, it appears to us that Thomas and Cleveland Trencher do not appear collectible.

Despite the fact that the Piscazzi Trust has no direct connection with the barrels, it makes practical sense, in light of the above, for us to explore barrel removal with EPA as a way to resolve EPA's potential claims against Mr. Piscazzi and the Trust in this matter. We have an inventory of the drums on-site. If EPA is interested in negotiating a resolution with



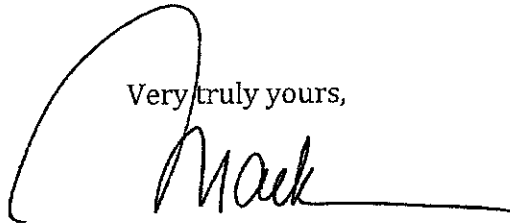
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my client on the removal of the drums, please confirm this inventory with the EPA representatives that have conducted the investigation of the site:

Quantity	Description	Contents
11	55 gallon drums	Used Oil
2	55 gallon drums	Oily Water
8	16 gallon drums	Grease
24	55 gallon drums	Non-Hazardous Solid Grease
1	30 gallon drum	Sodium Hydroxide
3	55 gallon drums	Paint/Thinners - Pumpable
52	55 gallon drums	Paint/Thinners - Solid

Please contact me once you've had an opportunity to review this package so that we may discuss the possibility of resolving this matter in an amicable and cooperative fashion. Thank you for your time and attention to this letter. I look forward to hearing from you soon.

Very truly yours,



Mark J. Scarpitti

MJS:ljm

cc: Joseph J. Piscazzi, Trustee  
Shane Farolino, Esq.



# **EXHIBIT 17**

# EXECUTIVE INVESTMENTS

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Investment Real Estate

2550 Chamberlain Rd.- Suite C1  
Fairlawn, Ohio 44333-4147

Phone 330-864-2343  
Fax 330-864-1475

July 24, 2007

Mr. Gary L. Thomas, Trustee  
P.O. Box 1052  
Akron, Ohio 44309

Re: 20100 St. Clair Avenue;  
Euclid, Ohio 44117  
Including ±14.5 acres

Dear Mr. Thomas:

This letter will serve to confirm our agreement regarding the listing and sale of the captioned property.

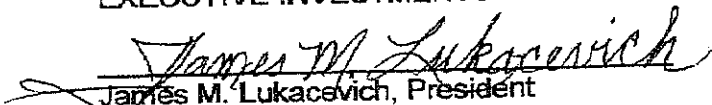
As agreed you will pay a finder's fee commission of eight per cent of the purchase or exchange price, and eight per cent of gross rentals, when the property is sold or leased. It is agreed that you will sign an Exclusive Agency Agreement authorizing Executive Investments to sell or lease the captioned property as soon as the value has been determined. It is understood that I will be representing you, the Seller, in the transaction.

Please indicate your acceptance below and return a signed copy to me by Fax to 330-864-1475 or by regular mail. Retain a signed copy.

I shall forward the Exclusive Agency Agreement and forms required by the State of Ohio (i.e. Agency Disclosure Statement and Consumer Guide to Agency Relationships) for your signature as soon as the asking price has been determined.

Thank you for your co-operation.

Respectfully,  
EXECUTIVE INVESTMENTS

  
James M. Lukacevich, President

I agree to the above-stated terms this July \_\_\_\_\_, 2007: \_\_\_\_\_, Trustee

C.C.: Joseph Piscazzi

# **EXHIBIT 18**



## AGREEMENT

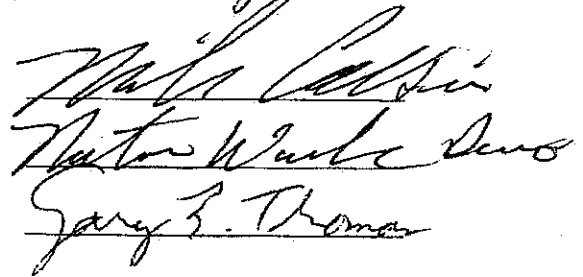
WHEREAS, Gary L. Thomas, as Trustee is the owner of the property located at 20100 St. Clair Ave., Euclid, Ohio and is desirous of having the building located on the property demolished,

WHEREAS, Nationwide Demolition Services Inc. has agreed to do the salvage and demolition of the building,

NOW THEREFORE, the parties mutually agree as follows:

1. Nationwide Demolition Services Inc., here after known as NDI, will salvage any and all usable material from the building, tear it down, and return it to bare land. Once started, NDI has 180 days to complete the project.
2. In exchange for NDI being allowed to salvage the materials in the building, NDI will pay to Gary L. Thomas, Trustee, here after known as Trustee, 30% of the gross proceeds of all money received by NDI for the materials salvaged at the above location. NDI will provide all documents that Trustee may request for the accounting of the salvage and the payments received by NDI for the salvage. Payments will be made to Trustee as they are received by NDI for the salvage operation
3. NDI will obtain all necessary permits including but not limited to Ohio EPA, for the demolition and Trustee agrees to do whatever necessary to aid them in this process
4. NDI will provide proof of insurance to Trustee
5. After the building has been reduced to bare land, Trustee, upon the sale of the land, sale pay NDI 10% of the net proceeds of the sale after all expenses and commission

Signed and mutually agreed to by the parties this 14<sup>th</sup> day of Aug. 2007.

  
\_\_\_\_\_  
\_\_\_\_\_

Gary L. Thomas, Trustee  
P.O. Box 1052  
Akron, Ohio 44309  
Ph. 330.535.7070  
Fax 330.535.3760  
Cel 330.802.2620

July 23rd, 2007

Re: Cleveland Trencher Building  
20100 St. Clair Ave.  
Euclid, Ohio 44117

To whom it may concern:

This letter hereby authorizes Nationwide Demolition Services Inc. and Michael Collins or his agents to enter the above captioned property and remove anything from it for the purpose of demolishing the building. Please feel free to call me if you have any questions. Thank you.

Sincerely,

  
Gary Thomas, Trustee,  
Owner

## **EXHIBIT 19**

# ASBESTEK, INC. ENVIRONMENTAL SERVICES

Nationwide Demolition  
8406 State Road Route 13  
Greenwich, OH 44837  
Mr. Mike Collins, President

August 16, 2007

RE: Asbestos abatement work proposal  
20100 St. Clair Avenue, Euclid, OH

Dear Mr. Collins:

Asbestek, Inc. proposes to remove and dispose of the 11,400 square feet of non-friable transite that is located at 20100 St. Clair Avenue, Euclid, Ohio (the former Cleveland Trencher Company) and referenced in the asbestos sampling survey dated 8-09-07 performed by Affiliated Environmental Services Inc.

Asbestek, Inc. has registered with the Secretary of the State to perform work in Ohio as a foreign for Profit Corporation. The initial work is non-regulated Category II, non-friable which we can begin A.S.A.P.

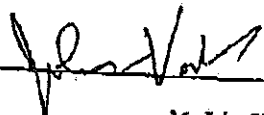
We understand Nationwide Demolition will support our efforts by removing any trees or other materials at the site that may impede the access to the siding as well as provide us with a boom lift to reach the elevated panels and also provide us with a source of water and electricity. Protocol for this activity, although not required by the State of Ohio, Department of Environmental, still requires we try to maintain the integrity of the panels by not breaking them and causing them to become friable. We will document panels that have pre-existing structural cracks and use wet methods and encapsulate areas that may break during abatement procedures. All panels will be placed in double lined containers, profiled by the landfill and manifested prior to shipment, indicating type of materials and quantities shipped per waste stream.

We further propose to remove and dispose of all the friable asbestos referenced in the same survey that includes 6,700 square feet of spray on insulation in the maintenance shed and approximately 1,000 linear feet of asbestos covered pipe throughout the facility. These abatement activities will require a 10 day notification to the State of Ohio, Department of Environmental, Asbestos division as well as friable removal protocol.

We will require a partial payment of \$30,000.00 dollars upon completion of the transite panels or within two weeks from the start of the project, whichever comes first and the balance of \$20,000.00 dollars to be paid upon completion of the remainder of the friable portion of the project. Lump sum project total is \$50,000.00.

Accepted by Nationwide Demolition / Mr. Mike Collins, President or company officer signature and title

Date

 PROJECT MGR. Date 8-16-07

Mr. Tobias Amaya  
President / Asbestek, Incorporated

Mr. John Vaden  
Project Manager / Asbestek, Incorporated

8917 KENNEDY AVENUE • HAMMOND, IN • 46323  
PHONE: 219-338-4067 • FAX: 219-535-4164



# ASBESTEK, INC. ENVIRONMENTAL SERVICES

Nationwide Demolition  
8406 State Road Route 13  
Greenwich, OH 44337  
Mr. Mike Collins, President

August 16, 2007

RE: Asbestos abatement work proposal  
20100 St. Clair Avenue, Euclid, OH

Dear Mr. Collins:

Asbestek, Inc. proposes to remove and dispose of the 11,400 square feet of non-friable transite that is located at 20100 St. Clair Avenue, Euclid, Ohio (the former Cleveland Trenches Company) and referenced in the asbestos sampling survey dated 8-09-07 performed by Affiliated Environmental Services Inc.

Asbestek, Inc. has registered with the Secretary of the State to perform work in Ohio as a foreign for Profit Corporation. The initial work is non-regulated Category II, non-friable which we can begin A.S.A.P.

We understand Nationwide Demolition will support our efforts by removing any trees or other materials at the site that may impede the access to the siding as well as provide us with a boom lift to reach the elevated panels and also provide us with a source of water and electricity. Protocol for this activity, although not regulated by the State of Ohio, Department of Environmental, still requires we try to maintain the integrity of the panels by not breaking them and causing them to become friable. We will document panels that have pre-existing structural cracks and use wet methods and encapsulate areas that may break during abatement procedures. All panels will be placed in double lined containers, profiled by the landfill and manifested prior to shipment, indicating type of materials and quantities shipped per waste stream.

We further propose to remove and dispose of all the friable asbestos referenced in the same survey that includes 6,700 square feet of spray on insulation in the maintenance shed and approximately 1,900 linear feet of asbestos covered pipe throughout the facility. These abatement activities will require a 10 day notification to the State of Ohio, Department of Environmental, Asbestos division as well as friable removal protocol.

We will require a partial payment of \$30,000.00 dollars upon completion of the transite panels or within two weeks from the start of the project, whichever comes first and the balance of \$20,000.00 dollars to be paid upon completion of the remainder of the friable portion of the project. Lump sum project total is \$50,000.00.

Accepted by Nationwide Demolition / Mr. Mike Collins, President or company officer signature and title

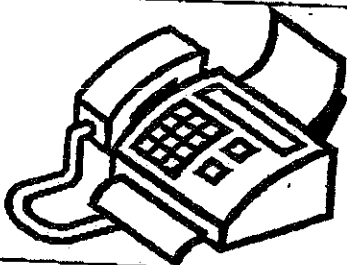
*Michael A. Collins*

Date 8/16/07

Mr. Thomas Ansysa  
President / Asbestek, Incorporated

Mr. John Vadar  
Project Manager / Asbestek, Incorporated

8811 KENNEDY AVENUE - HAMMOND, IN - 46323  
PHONE: 219-895-8057 • FAX: 219-895-4154



# A facsimile from

John Vadas  
JPV Services  
**ASBESTEK, INC.**  
Safe Environment  
219-845-3074  
Phone & Fax

**To: Nationwide Demolition**  
Attention: Molly Collins / Mike Collins  
Fax number: 419-589-8103

**Date: 8-31-07**  
**Time: 6:30 P.M. Chicago**

Pages Including cover: [8]  
[Please call if all of this fax was not received]  
219-845-3074 / 219-808-1882

**Regarding:** 10 Day notification to Ohio Dept. of Health / Ohio license and certificates

Mike & Molly,

The following pages are for your records. My partner, Tomas, is going to Euclid tomorrow late P.M. with a crew and equipment to take care of the pipe and any clean up you need done on Sunday. I am hoping the lifts are still there and working. He has enough materials to take care of a lot of clean up so you should be able to get at the steel. His cell phone number is 773-544-4848 if you need to talk to him about anything. If you are still interested in getting us to put together a number for the Indianapolis project, please FedEx the survey. I am going down to Indianapolis on Tuesday night and can stay and look at the project all day Wednesday. If you have other bidders looking at the site I might be able to save you some time. Don't use Champion or Heritage for your own good. They both have a history of major violations. When I was an Inspector I removed Heritage from the Mercury clean-up projects working for IT Corporation in the Chicago area. They took the gray area too far. As far as the EPA in Ohio, I do not foresee any problems. We will play it by the book on the friable containment and glove bag work. Don't let the dates on the notification scare you. I just have to put something that looks good to a regulator. We will probably knock out the friable in two days, 3 at the most.

Thanks; John

John Vadas My e-mail address is [JPVFLange@comcast.net](mailto:JPVFLange@comcast.net) Web Site: [WWW.JPVServices.com](http://WWW.JPVServices.com)  
Cell 219-808-1882 Fax 219-845-3074 (My office)

ASBESTEK, INC. Phone: 219-595-4057 Fax: 219-595-4154 Tomas Amaya  
Safe Environment: 219-808-1882

## **EXHIBIT 20**



**OldhamKramer**

Professional Legal Services

Mark J. Scarpitti  
Direct Line (330) 761-6456  
mscarpitti@oldhamkramer.com

October 21, 2010

Via US Mail and Email

Mr. Kevin Chow, Esq.  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
C-14J - Region 5  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

**\*\*\* NOTE: This correspondence is being submitted as part of ongoing settlement negotiations and is protected from admissibility by Fed. Evid. R. 408 and Ohio Evid. R. 408\*\*\***

RE: Matter: *In re: Cleveland Trencher Facility, Unilateral Order Docket No. V-W-10-C-950*  
My Client: Joseph J. Piscazzi, Trustee, Joseph J. Piscazzi Revocable Living Trust

Dear Mr. Chow:

The purpose of this letter is to provide EPA with a response to the Notice of Intent to Comply deadline set for today, October 21, 2010. Please accept this letter as notice that my client, Joseph J. Piscazzi, Trustee, Joseph J. Piscazzi Revocable Living Trust (the "Trust") is financially unable to fully comply with the amended unilateral administrative order of June 21, 2010. As you know, we remain ready, willing, and able to partially comply with the order (the "Order"): namely, Section V, Paragraph 3 (d) "Remove and dispose of all drums and other containers of hazardous materials, contaminants, or pollutants." To the extent applicable and interrelated to the preceding paragraph, the Trust will also comply with Paragraph 3(e) and "transport and dispose of all hazardous material, or contaminants at an EPA-approved disposal facility in accordance with EPA's Off-Site Rule (40 CFR § 300.440).

As we have indicated on previous occasions, we stand by our settlement offer to "remove the barrels" as outlined in our May 26, 2010 letter. We are willing to undertake this work and complete it subject to EPA's supervision and approval in exchange for a full release from additional liability under the Order and contribution protection from the other PRPs.



In light of the following mitigating factors, we ask that EPA reconsider its earlier decision not to resolve its claims against the Trust:

1. The Trust has fully cooperated with EPA during this entire process to the best of its ability;
2. On May 26, 2010, the Trust submitted a detailed letter to EPA, with supporting documentation, outlining its liability and defenses under CERCLA;
3. The Trust (in concert with counsel for PRP Nationwide Demolition Service, LLC) was instrumental in identifying and providing evidence to EPA to add Safe Environment Corporation as a PRP to the Order;
4. Adding Safe Environment to the Order enabled EPA to have a PRP with the means to fully clean up the site. Furthermore, Safe has, in fact, submitted a Notice of Intent to Comply with the Order;
5. Therefore, the EPA has a committed PRP that is able to complete *all* the clean-up work at the site;
6. The Trust, at its own expense, organized and presided over several Joint PRP Conferences and a Joint PRP / EPA Conference in an attempt to secure a joint compliance agreement between the represented PRPs: the Trust; Nationwide; and Safe Environment;
7. The Trust worked diligently behind the scenes to bring these parties together and propose a joint plan to EPA to clean-up the Cleveland Trencher Site;
8. The Trust's position among the PRPs was clear from the beginning, and the failure of a joint PRP agreement and proposal occurred outside of the Trust's control;
9. The Trust's alleged *indicia of ownership* arose solely out of its role as a lender to the Cleveland Trencher Company, and the Trust has valid and good-faith CERCLA defenses to any action brought by EPA or the Department of Justice under the Order;



Mr. Kevin Chow, Esq.

Page 3

October 21, 2010

10. Despite this, the Trust was the first PRP to approach EPA with an offer to do work at the site;
11. The Trust has already suffered over \$200,000 in losses as a result of the negligence and fraud of the other PRPs; and
12. As you know, the Trustee, Joseph J. Piscazzi, is 77 years old and a retired businessman. Mr. Piscazzi has serious health problems including cancer and a heart condition.

The Trust remains committed to its pledge of cooperation to EPA, but is unable to submit a Notice of Intent to Comply because such a submission would operate as an admission of liability as it relates to EPA and would not be in good faith. Irrespective of its defenses and lack of any liability, the Trust simply does not have the resources to conduct a full clean-up of the site. Submitting a Notice of Intent to Comply would, in effect, bind the Trust to an obligation it cannot and could never meet.

In an effort to compromise this matter with EPA, the Trust previously submitted a proposal to remove the following containers from the site:

<i>Quantity</i>	<i>Description</i>	<i>Contents (unverified)</i>
11	55 gallon drums	Used Oil
2	55 gallon drums	Oil Water
8	16 gallon drums	Grease
24	55 gallon drums	Non-Hazardous Solid Grease
1	30 gallon drum	Sodium Hydroxide
3	55 gallon drums	Paint/Thinners - Pumpable
52	55 gallon drums	Paint/Thinners - Solid

The Trust has engaged the services of the following company to oversee and complete this task:

Safety Health and Environmental Services, Inc.  
23 West Boston Mills Road  
Peninsula, Ohio 44262  
(330) 592-2211



Mr. Kevin Chow, Esq.

Page 4

October 21, 2010

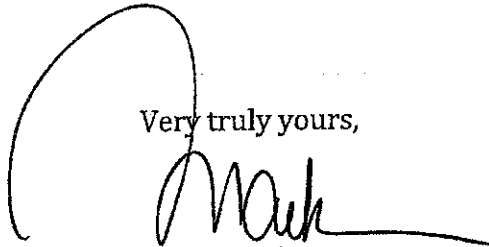
Further, the Trust has designated Robert Siladie of S.H.E.S. to serve as Project Coordinator and On-Site Coordinator. Siladie informs me that his work-plan is simple:

1. Inspect, label, identify, and secure the contents of each container;
2. Based upon the hazardous or non-hazardous nature of same, determine which EPA approved removal contractors would be necessary and appropriate to use to haul away each container – submit those names to EPA for immediate approval and immediately engage their services;
3. Manifest each container with each appropriate removal contractor (if more than one is necessary); and
4. Monitor both the loading and ultimate disposal of each container in accordance with EPA guidelines and Federal Regulations.

Mr. Siladie indicates that this entire process should take no more than three (3) days to complete absent any delay in contractor approval from EPA.

I sincerely appreciate the cooperative and professional way you have conducted your role as regional counsel and liaison with the PRPs. I deeply regret that we were unable to present you with a joint PRP agreement to globally resolve this matter. I am hopeful that EPA will reconsider its position and allow the Trust to complete the removal of the barrels in exchange for a release from the Order and contribution protection. Thank you for your time and attention to this letter. Please feel free to contact me at any time.

Very truly yours,



Mark J. Scarpitti

MJS:ljm

cc: Joseph J. Piscazzi, Trustee



## **EXHIBIT 21**



UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION V  
RESPONSE SECTION I  
25089 CENTER RIDGE ROAD  
WESTLAKE, OHIO 44145  
(216) 835-5200



TEAM WESTLAKE

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mark Scarpitti, Esq.  
Oldham Kramer  
195 South Main Street, Suite 300  
Akron, OH 44308

Re: Cleveland Trencher Superfund Site, Euclid, OH  
EPA Response to Notice of Intent to Comply;  
EPA Review of Work Plan and Health and Safety Plan

Dear Mr. Scarpitti:

The U.S. Environmental Protection Agency, Region 5 has reviewed your correspondence dated October 21, 2010, which you timely submitted on behalf of your client, the Joseph J. Piscazzi Revocable Living (the "Trust"), pursuant to EPA's June 21, 2010, Unilateral Administrative Order ("UAO") (Docket No. V-W-10-C-950), the Order Amendment dated July 27, 2010, and subsequent extensions granted by EPA. Your letter includes: (1) the Trust's Notice of Intent to Comply as required by Section V, Paragraph 1 of the UAO, and (2) a work plan for the drums as required by Section V, Paragraphs 3.1 of the UAO. By this letter, EPA is providing its responses to your submission.

As its Notice of Intent to Comply, the Trust states it is financially unable to "fully" comply with the UAO but is willing to "partially" comply by addressing only the drums at the Site subject to a full release from additional liability under the UAO and contribution protection from other parties. At this time, EPA will not enter into a compromise with the Trust. Additionally, your statement of intent lacks clarity as to what actions the Trust will take, if any, to comply with the UAO. Please provide EPA a statement of what the Trust intends to do under the UAO.

With respect to the "simple" work plan included in your letter, EPA finds it to be deficient as a Work Plan to address the drums. Additionally, no Health and Safety Plan was submitted. Therefore the plan you submitted does not meet the requirements of Section V, Paragraphs 3.1 and 3.2 of the UAO, including without limitation the requirement of a Quality Assurance Project Plan. EPA therefore disapproves it in its entirety. Enclosed are a blank, generic Work Plan, an example of a Work Plan for drums, an example of a Work Plan for Asbestos, and a Health and Safety Plan. These are examples only from other sites; any plan for the Cleveland Trencher Superfund Site must properly address site-specific conditions. Please

review such examples and re-submit revised Work and Health and Safety Plans that meet the requirements of the UAO. Pursuant to Section V, Paragraph 3.1, if EPA requires revisions to a Work Plan, the respondent shall submit a revised plan within 7 business days of notification. Therefore, please submit your revised Work and Health and Safety Plans within 7 business days of your receipt of this letter.

At the same time, you must also provide the contractor and project coordinator information required under Section V, Paragraph 2 of the UAO. This includes the qualifications of such contractor, among other things. At the same time, please also provide EPA with a statement of what actions the Trust intends to take in order to comply with the UAO.

Please note that Section VII of the UAO provides for statutory penalties for non-compliance with the UAO. These include penalties of up to \$32,500 per violation per day, punitive damages of up to three times the amount of any costs incurred by the United States due to the violation, and judicial enforcement of the Order.

Please address your materials to me at the above address. I may be reached at (440) 241-3620 or (440) 250-1718. Please contact Associate Regional Counsel Kevin Chow at (312) 353-6181 regarding all legal matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Wolfe", with a long horizontal line extending to the right.

Stephen Wolfe  
On-Scene Coordinator

Enclosures

cc: Kevin Chow (C-14J)  
Carol Ropski (SE-5J)  
Mark Durno (ME-W)

## **EXHIBIT 22**



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

November 10, 2010

REPLY TO THE ATTENTION OF:

C-14J

VIA U.S. MAIL

Mark Scarpitti, Esq.  
Oldham Kramer  
195 South Main Street, Suite 300  
Akron, OH 44308

Re: Cleveland Trencher Superfund Site, 20100 St. Clair Ave., Euclid, OH  
Extension for Submittal of Revised Plans  
and Revised Notice of Intent to Comply

Dear Mr. Scarpitti:

On or about November 8, 2010, you received a letter signed by On-Scene Coordinator Stephen Wolfe on November 5, 2010, informing you that the U.S. Environmental Protection Agency disapproves the drum workplan submitted on October 21, 2010 on behalf of your client, the Joseph J. Piscazzi Revocable Living Trust (the "Trust"), and requiring the submittal of a revised workplan, a health and safety plan, a revised notice of intent to comply, and additional contractor and project coordinator information, within 7 business days of your receipt of the letter, which is November 18, 2010. On November 8<sup>th</sup>, I spoke with Mr. Patrick Thomas, the attorney representing Safe Environmental Corporation of Indiana ("Safe") in this matter, regarding a similar letter that EPA sent to Safe which disapproved the work and health and safety plans submitted by Safe on October 21<sup>st</sup>, and which required Safe to submit revised plans, a revised notice of intent to comply, and additional contractor information within 7 business days. Mr. Thomas requested a 30 day extension on behalf of Safe. EPA is not granting such request. However, EPA grants an extension to November 23, 2010, for all items or information required under Mr. Wolfe's letter to Safe, as well as for all items or information required under Mr. Wolfe's letter to the Trust. This shall be the final extension for these documents.

If you have any questions, I can be reached at (312) 353-6181 and [chow.kevin@epa.gov](mailto:chow.kevin@epa.gov).  
Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Kevin Chow".

Kevin Chow  
Associate Regional Counsel



cc: Steve Wolfe (ME-W)  
Carol Ropski (SE-5J)

## **EXHIBIT 23**



**E-MAILED**  
10/4/11

October 4, 2011

Mr. Mark Scarpitti  
Millennium Center  
200 Market Avenue North, Suite 300  
Canton, Ohio 44702

PISCAZZI

Re: Trencher – Euclid, Ohio  
Additional Work

Dear Mr. Scarpitti:

Please find listed below our proposal for work to be performed on the above referenced project. Our proposal is as follows:

1. **Old Drum Pad:** The project includes the packaging and disposal of debris pile located east of drum pad. Additionally, included is the scraping up of additional paint at drum pad. Required analytical is included and material is **assumed** as lead hazard **only**.

**Project Cost: \$6,400.00**

2. **Unknown UST:** The project includes the exploratory digging for location of assumed UST. If located and material located within UST will be vacuumed out. 1000 gallons of gasoline/water is included in this cost. Exploratory excavation is limited to no more than 4 hours of work.

**Project Cost: Not-To-Exceed \$4,060.00**

Please note that this pricing assumes that work will be performed while equipment and personnel are still on site. Additionally, charges may apply for re-mobilization of equipment.

If you require further information, please contact me on 216-642-6040.

Sincerely,



John E. Savage, Jr.  
Vice President

JES: bj



July 14, 2011

Mr. Mark Scarpitti  
Oldham Kramer  
195 South Main Street  
Akron, Ohio 44308

RE: Former Cleveland Trencher Facility  
Euclid, Ohio

The following describes our understanding of the scope of services to be performed by Precision Environmental, for the Client, at the above referenced location known as the Job Site.

**Scope of Work**

Precision Environmental shall sort, package and transport drums for disposal. Non-Haz Transformers shall be transported by flatbed. Additional fees may apply for transformers which are outside normal size and weight limits.

**Fee Structure**

Disposal (not including Transformers):	\$16,025.00
Supplies (8-55 Gal drums, 59-Overpack drums):	\$ 6,425.00
Labor (1 Technician, 4 hours, \$45/hr):	\$ 570.00
Transportation (Drum van, 12 hours, fuel surcharge included):	\$ 1,325.00
<b>Total:</b>	<b>\$24,345.00</b>
Non-PCB Transformers Disposal	\$ 0.30 per KVA Credit
Transportation:	\$ 885.00

Time and material rates shall be charged portal to portal.

~~Please note that surcharges shall apply for off specification materials.~~

Applicable taxes are not included in our quotation, but shall be charged as applicable to the work.

~~Transportation Fuel Surcharges shall apply based on DOE On Highway average fuel index. (35% presently).~~

~~Minimum charges for transportation and disposal may apply to bulk loads.~~

~~Paint is assumed to be enamel-type paint, paint thinner or similar solvent. Quote does not include aluminum or zinc-based paint, isocyanates or other resins, paint containing RCRA metals, or chlorinated solvents.~~

Analytical is not included in the above pricing. If additional analytical is needed to properly dispose of waste others will need to provide.

**Conclusions**

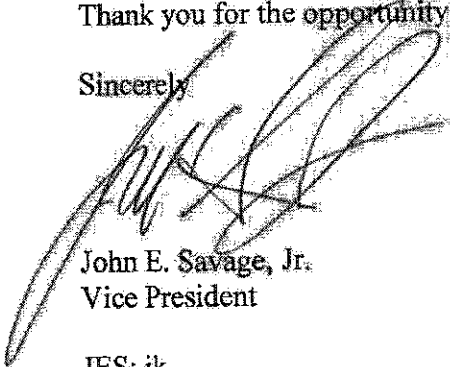
Our services will be accordingly limited to those activities herein listed unless specific changes, additions or deletions to the scope of work are submitted in writing to this office. If there is any misunderstanding or if you have any questions, please contact the undersigned. Please note that this proposal is valid for 60 days. ~~Pricing is subject to change without notice.~~

This proposal is not final until the waste stream has been properly characterized, profiled, and accepted by the disposal site.

All services to be performed in accordance with Precision Environmental's standard terms and conditions.

Thank you for the opportunity to provide this service.

Sincerely,



John E. Savage, Jr.  
Vice President

JES: jk

**Acceptance**

Issuance of a purchase order by Client and /or initiation of Services by Precision Environmental for this project constitutes acceptance of all terms and conditions contained herein.

BY:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Typed/Printed Name Title

\_\_\_\_\_  
Purchase Order #

**INVOICE**



5500 Old Brecksville Road • Independence, Ohio 44131  
(216) 642-6040 • fax (216) 642-6041

Invoice Date      Customer ID      Invoice ID  
10/31/2011      47569      27576

Work Order

To:  
Millennium Center  
200 Market Avenue North  
Suite 300  
Attn: Mr. Mark Scarpitti  
Canton, OH 44702

Job Location:  
1105205  
Cleveland Trencher  
20100 St.. Clair Avenue  
Cleveland, OH

---

Description	Amount
Work performed at Cleveland Trencher - Additional Work per proposal dated 10/18/11 - see attached.	9,055.00

---

Amount Billed      \$9,055.00  
Total Tax

Due Date:      11/30/2011

Invoice Amount      \$9,055.00

#1)



5500 Old Brecksville Road • Independence, Ohio 44131  
(216) 642-6040 • fax (216) 642-6041

October 18, 2011

Mr. Mark Scarpitti  
Millennium Center  
200 Market Avenue North, Suite 300  
Canton, Ohio 44702

Re: Trencher – Eudid, Ohio  
Additional Work Revised

Dear Mr. Scarpitti:

Please find listed below our proposal for work to be performed on the above referenced project. Our proposal is as follows:

1. **Old Drum Pad:** The project includes the packaging and disposal of debris pile located east of drum pad. Additionally, included is the scraping up of additional paint at drum pad. Required analytical is included and material is **assumed** as lead hazard **only**.

**Project Cost: \$6,400.00**

2. **Unknown UST:** The project gasoline/water is included in this cost. The project includes the vacuuming of product from tank and disposal of contents from an EPA approved facility. Proposal assumes a quantity of 1,000 gallons. At the completion of work, the fill cap will be plugged with concrete.

**Project Cost: Not-To-Exceed \$2,655.00**

Please note that this pricing assumes that work will be performed while equipment and personnel are still on site. Additionally, charges may apply for re-mobilization of equipment.

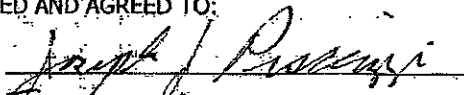
If you require further information, please contact me on 216-642-6040.

Sincerely,

  
John E. Savage, Jr.  
Vice President

JES: bj

APPROVED AND AGREED TO:

By:   
Title: TRUSTEE  
Date: 10/19/2011

**E-MAILED**  
10/18/11

# **EXHIBIT 24**





July 14, 2011

Mr. Mark Scarpitti  
Oldham Kramer  
195 South Main Street  
Akron, Ohio 44308

RE: Former Cleveland Trencher Facility  
Euclid, Ohio

The following describes our understanding of the scope of services to be performed by Precision Environmental, for the Client, at the above referenced location known as the Job Site.

**Scope of Work**

Precision Environmental shall sort, package and transport drums for disposal.  
Non-Haz Transformers shall be transported by flatbed. Additional fees may apply for transformers which are outside normal size and weight limits.

**Fee Structure**

<b>Disposal (not including Transformers):</b>	<b>\$16,025.00</b>
<b>Supplies (8-55 Gal drums, 59-Overpack drums):</b>	<b>\$ 6,425.00</b>
<b>Labor (1 Technician, 4 hours, \$45/hr):</b>	<b>\$ 570.00</b>
<b>Transportation (Drum van, 12 hours, fuel surcharge included):</b>	<b>\$ 1,325.00</b>
<b>Total:</b>	<b>\$24,345.00</b>
<b>Non-PCB Transformers Disposal</b>	<b>\$ 0.30 per KVA Credit</b>
<b>Transportation:</b>	<b>\$ 885.00</b>

Time and material rates shall be charged portal to portal.  
Please note that surcharges shall apply for off specification materials.  
Applicable taxes are not included in our quotation, but shall be charged as applicable to the work.  
Transpiration Fuel Surcharges shall apply based on DOE On Highway average fuel index. (35% presently).  
Minimum charges for transportation and disposal may apply to bulk loads.  
Paint is assumed to be enamel-type paint, paint thinner or similar solvent. Quote does not include aluminum or zinc-based paint, isocyanates or other resins, paint containing RCRA metals, or chlorinated solvents.  
Analytical is not included in the above pricing. If additional analytical is needed to properly dispose of waste others will need to provide.

**Conclusions**

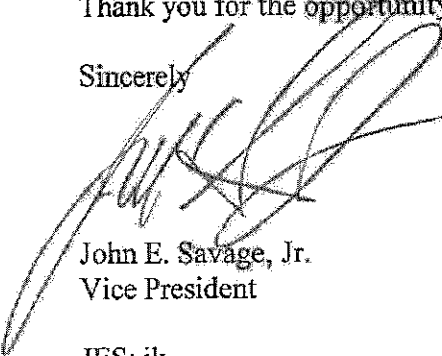
Our services will be accordingly limited to those activities herein listed unless specific changes, additions or deletions to the scope of work are submitted in writing to this office. If there is any misunderstanding or if you have any questions, please contact the undersigned. Please note that this proposal is valid for 60 days. Pricing is subject to change without notice.

This proposal is not final until the waste stream has been properly characterized, profiled, and accepted by the disposal site.

All services to be performed in accordance with Precision Environmental's standard terms and conditions.

Thank you for the opportunity to provide this service.

Sincerely



John E. Savage, Jr.  
Vice President

JES: jk

**Acceptance**

Issuance of a purchase order by Client and /or initiation of Services by Precision Environmental for this project constitutes acceptance of all terms and conditions contained herein.

BY:

Signature	Date
Typed/Printed Name	Title
Purchase Order #	



**Cleveland Trencher  
Regulated Waste Removal**

**20100 St. Clair Ave.  
Euclid, OH.**

**ITEMS TO BE REMOVED**

**Task #1: Containerized Materials**

A) A number of containers (including 2 or 3 small above ground storage tanks) have been identified for removal. These containers were found to contain the following materials: oil; oily water; grease; non-hazardous solid grease; sodium hydroxide; paint/thinners pumpable; and paint/thinners solid. Some of this material will be considered hazardous waste under RCRA, based on its characteristics and/or composition.

a. Field observations and subsequent verification will be used to characterize and classify listed containers and complete appropriate TSD facility profiles. Information used for characterization includes generator knowledge, obvious odors, obvious labels, visual inspection of color and texture, pH, MSDS sheets, and previous analysis (if any). Additional analysis (as necessary) to complete a full characterization will be completed prior to the commencement of work.

b. Completed profiles will be presented to the owner for review and signature. Signed profiles will be submitted to TSD's for disposal approvals.

c. Each container will be evaluated for structural integrity. If any container is not in DOT shippable condition, the container will be repaired (replace lid, ring, bung/s), consolidated, over packed or repackaged.

d. All containers will be collected in a staging area in preparation for transportation off-site. Similar materials, especially oils, may be bulked together into the same drum to facilitate shipping. Empty containers from this process will be labeled in preparation for shipment to a drum recycler.

e. Each container will be properly labeled/marked as required.

f. Appropriate shipping papers, manifest, LDR's will be prepared for each container.

g. Containers will be loaded to licensed transportation vehicles and transported to TSD's for final disposal.

h. At the completion of the project, client will have copies of all relevant paperwork related to transportation and disposal.

i. Client will have the option to inspect the site and approve prior to contractor's demobilization.

### **Task #2: Electrical Transformers**

Several pole-mounted electrical transformers have been identified on-site. These transformers have been identified as non- TSCA. These will be sent to a transformer recycler for appropriate handling. The recycler will verify the PCB levels prior to processing the transformers.

### **Safety Precautions**

1) PPE will include hard-hat, work boots, gloves, and safety glasses. If drums must be opened for any reason, personnel will wear air-purifying respirators with combination cartridges. White Tyvek suits will also be employed as necessary, especially if waste must be pumped or poured from one container to another.

2) Any hand tools and non-disposable PPE that may come in direct contact with hazardous waste will be washed, if necessary, with a mild detergent and water then rinsed with clean water. All wash/rinse waters along with any clothes, brushes, and/or paper produces used for cleaning/drying will be collected in appropriate containers for disposal.

3) All used disposable PPE will be collected as discarded into appropriate containers.



5500 Old Brecksville Road • Independence, Ohio 44131  
(216) 642-6040 • fax (216) 642-6041

July 14, 2011

Mr. Mark Scarpitti  
Oldham Kramer  
195 South Main Street  
Akron, Ohio 44308

RE: Former Cleveland Trencher Facility  
Euclid, Ohio

The following describes our understanding of the scope of services to be performed by Precision Environmental, for the Client, at the above referenced location known as the Job Site.

**Scope of Work**

Precision Environmental shall sort, package and transport drums for disposal.  
Non-Haz Transformers shall be transported by flatbed. Additional fees may apply for transformers which are outside normal size and weight limits.

**Fee Structure**

Disposal (not including Transformers):	\$16,025.00
Supplies (8-55 Gal drums, 59-Overpack drums):	\$ 6,425.00
Labor (1 Technician, 4 hours, \$45/hr):	\$ 570.00
Transportation (Drum van, 12 hours, fuel surcharge included):	\$ 1,325.00
<b>Total:</b>	<b>\$24,345.00</b>
Non-PCB Transformers Disposal	\$ 0.30 per KVA Credit
Transportation:	\$ 885.00

Time and material rates shall be charged portal to portal.  
~~Please note that surcharges shall apply for off specification materials.~~  
 Applicable taxes are not included in our quotation, but shall be charged as applicable to the work.  
~~Transportation Fuel Surcharges shall apply based on DOE On Highway average fuel index. (35% presently)~~  
~~Minimum charges for transportation and disposal may apply to bulk loads.~~  
~~Paint is assumed to be enamel-type paint, paint thinner or similar solvent. Quote does not include aluminum or zinc-based paint, isocyanates or other resins, paint containing RCRA metals, or chlorinated solvents.~~

Analytical is not included in the above pricing. If additional analytical is needed to properly dispose of waste others will need to provide.



**Conclusions**

Our services will be accordingly limited to those activities herein listed unless specific changes, additions or deletions to the scope of work are submitted in writing to this office. If there is any misunderstanding or if you have any questions, please contact the undersigned. Please note that this proposal is valid for 60 days. ~~Pricing is subject to change without notice.~~

This proposal is not final until the waste stream has been properly characterized, profiled, and accepted by the disposal site.

All services to be performed in accordance with Precision Environmental's standard terms and conditions.

Thank you for the opportunity to provide this service.

Sincerely,

John E. Savage, Jr.  
Vice President

JES: jk

**Acceptance**

Issuance of a purchase order by Client and /or initiation of Services by Precision Environmental for this project constitutes acceptance of all terms and conditions contained herein.

BY:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Typed/Printed Name Title

\_\_\_\_\_  
Purchase Order #