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IN THE COURT OF COMMON PLEAS
BELMONT COUNTY, OHIO

COMMON PLEAS COURT
BELMONT CO. OH
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LAURA A. ZUPKO
CLERK OF COURT

STATE OF OHIO, *ex rel.*
DAVE YOST
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

AUSTIN MASTER SERVICES, LLC, *et al.*,

Defendants.

CASE NO. 24 CV 79

JUDGE JOHN A. VAVRA

FINAL APPEALABLE ORDER

Final Judgment Entry on Civil Penalty

This matter came before the Court on December 16, 2025, for a hearing on civil penalty pursuant to R.C. 1509.33. The State was represented by Assistant Attorneys General Douglas Curran, Allen Vender, and Joseph Wambaugh. Defendant Brad Domitrovitsch appeared pro se and remotely via Google Meet. Defendants Austin Master Services, LLC (“AMS”) and American Environmental Partners, Inc. (“AEPT”) failed to appear through counsel at the hearing. Although Mr. Domitrovitsch appeared and questioned the State’s witnesses, he offered no evidence of his own.

Upon consideration of the Court’s Judgment Entry of December 1, 2025, the State’s briefing on civil penalty, and the witness testimony and exhibits admitted into evidence at the hearing, the Court issues the following findings of fact and conclusions of law:

Findings of Fact

1. On February 7, 2024, the Division of Oil and Gas Resources Management of the Ohio Department of Natural Resources (“Division”) conducted a routine quarterly inspection of

the AMS facility in Martins Ferry, Ohio, and found multiple violations of Ohio's oil and gas statutes and rules. It issued a notice of violation, directing AMS to remove waste sufficient to return to its primary containment storage capacity. The notice stated, in bold type, "Work to be completed by March 15, 2024."

2. Instead of complying with the February 7, 2024 notice of violation, Defendants made the situation significantly worse. At a follow-up inspection on March 15, 2024, the Division observed additional piles of waste outside of designated areas. Sludge and liquids covered a majority of the facility floor. Much of the solid and liquid waste was radioactive in nature.

3. AMS employees and ODNR inspectors alike were exposed to unsafe levels of radiation. The waste was so expansive and uncontrolled that it rendered useless the employees' "boot wash area," which was a key component of AMS's required Radiation Protection Program. Trucks could not drive through the facility without coming into contact with the uncontained waste, which created a risk that the waste could be transported outside of the facility.

4. Furthermore, the facility is in close proximity to the Ohio River and a Martins Ferry water supply well. A natural disaster such as a flood or fire could have carried contaminated waste to those water sources or into the breathable air, respectively.

5. The testimony of Division employees Tara Kinsey-Lee and Paul Carder established that the waste accumulation at the AMS facility posed a threat of harm to public health and the environment. No evidence of actual harm was observed by the Division.

6. Defendants not only ignored the Division's February 7, 2024 notice, they worsened the situation. As a result, the Division Chief issued a suspension of operations order. Without State intervention, Defendants would have very likely stockpiled even more waste.

7. Mr. Domitrovitsch, the chief executive officer of parent corporation AEPT, controlled the finances of AMS, AEPT, and AEPT's other subsidiaries. In 2023 and 2024, he commingled funds and diverted AMS's revenue to support both himself and other subsidiaries under the AEPT umbrella.

8. The waste accumulation in the facility was a direct result of AEPT's and Mr. Domitrovitsch's repeated failure to pay the bills of AMS's waste disposal vendors. This caused a domino effect whereby AMS, under Mr. Domitrovitsch's direction, accepted even more waste in order to generate revenue, much of which continued to be transferred away from AMS and used for purposes other than paying waste disposal vendors.

9. In December 2023, AEPT announced it had signed a "definitive agreement" to reverse merge with the Nasdaq-listed company SCWorx Corporation. Per the terms of the agreement, SCWorx stock shares would be converted into AEPT shares and SCWorx would become a subsidiary of AEPT.

10. At the time of the proposed reverse merger, Mr. Domitrovitsch's personal shell company, West End Consulting Group, owned 60-65% of AEPT's stock shares. According to Mr. Domitrovitsch, SCWorx was then worth \$5 million and AEPT was worth \$30 million. There was \$6 million in debt at the time, so the applied equity value of the company would have been \$22 million to \$24 million, Mr. Domitrovitsch estimated. The value of West End Consulting Group's shares then would have been between \$13.2 million and \$15.6 million.

11. AEPT's reverse merger with SCWorx was dependent upon AMS continuing to collect revenue for accepting waste in the first quarter of 2024.

12. Mr. Domitrovitsch stood to personally benefit from the reverse merger, which never materialized, and thus from AMS's continued acceptance of waste, even after February 7, 2024, when the Division notified AMS that the facility was out of compliance.

13. The State's expert witness, forensic accountant Rebekah Smith of GBQ Consulting, testified that, from 2022 through 2024, Mr. Domitrovitsch compensated himself above and beyond what he had represented through discovery in this matter. Ms. Smith also provided testimony that AEPT and its subsidiaries had undisclosed bank accounts that she could not discern from records provided by Defendants and obtained via subpoenas to various banks, and that significant sums of money were paid out of an AEPT-controlled bank account to one or more undisclosed American Express accounts.

14. Based on Ms. Smith's extensive financial analysis, which involved reviewing over 500 documents, this Court finds that funds existed to pay the bills of AMS's waste vendors, but that Mr. Domitrovitsch used those funds for other priorities, including enriching himself.

15. Each of Defendants' 11 violations spanned between 162 and 318 days, for a total of 2,818 days of violation.

16. Per the testimony of Ms. Kinsey-Lee, following the routine quarterly inspection of February 7, 2024, the Division spent significant time and resources in responding to Defendants' violations, ultimately resulting in the Division referring the matter to the Ohio Attorney General's Office. The Division conducted numerous follow-up inspections and facility visits, assisted in removing liquid waste from the facility floor, and communicated with approximately five potential successors to AMS's operations.

17. After multiple attempts to transfer AMS's permit failed, the Division stepped in to do the cleanup. It solicited bids and entered contracts for the remediation and closure of the

facility. It also spent time and resources addressing the concerns of local officials and community members and spent more time and resources issuing several additional Chief's Orders.

18. The enforcement burden extended into litigation. The State sought and obtained both a temporary restraining order and a preliminary injunction, pursued contempt of court charges, conducted extensive forensic accounting, served numerous subpoenas on financial institutions, and prepared two expert reports. These efforts were made more difficult and costly by Defendants' failure to preserve corporate financial records — records that could have been retained at minimal cost.

Conclusions of Law

1. Pursuant to the Court's Judgment Entry of December 1, 2025, Defendants are liable for Counts 1-11 of the State's Third Amended Complaint for violations of Ohio's oil and gas laws under R.C. Chapter 1509 and the rules adopted thereunder. Also, pursuant to R.C. 1509.33(G), Defendants are jointly and severally liable for \$6,208,049.43 in damages for the cost of remediation and closure of the subject facility.

2. Upon finding liability, violators of R.C. Chapter 1509 are subject to a civil penalty of up to \$10,000 for each day of each violation. R.C. 1509.33(A).

3. Because of the mandatory nature of civil penalties under R.C. Chapter 1509, a trial court's discretion lies in determining the amount of civil penalties to impose, not whether to impose a civil penalty. *See State of Ohio v. Tri-State Group, Inc.*, 2004-Ohio-4441, ¶ 103 (7th Dist.); *State v. Big Sky Energy, Inc.*, 2020-Ohio-4374, ¶ 42 (5th Dist.).

4. Deterrence is the primary purpose of assessing a civil penalty against a violator of environmental laws. *See Big Sky* at ¶ 43 ("Monetary penalties are designed to deter conduct [that] is contrary to a regulatory scheme."); *State ex rel. DeWine v. ARCO Recycling, Inc.*, 2022-

Ohio-1758, ¶ 81 (8th Dist.) (“Substantial penalties are used as a mechanism to deter conduct contrary to the regulatory program.”). A strong civil penalty deters both the violator in the present case from violating the law in the future and deters others who might violate the law in future cases. *State ex rel. Brown v. Dayton Malleable, Inc.*, 1 Ohio St.3d 151, 157 (1982). In *Dayton Malleable*, the Ohio Supreme Court cited with approval the trial court’s decision to assess a penalty “not . . . so large as to send [a company] into bankruptcy but . . . large enough to deter future violations.” *Id.* The penalty must be more than abatement or compliance costs. *Id.*

5. The Court may use its informed discretion to impose a civil penalty that is appropriate to: 1) redress the harm or risk of harm posed to public health or the environment by the violations at issue; 2) remove the economic benefit gained by the violations; 3) penalize the level of recalcitrance, defiance, or indifference demonstrated by the violator of the law; and 4) address the extraordinary enforcement costs incurred by the State of Ohio. *State ex rel. Brown v. Dayton Malleable, Inc.*, 1981 Ohio App. LEXIS 12103, *8-9 (2nd Dist. Apr. 21, 1981) (partially reversed on other grounds, 1 Ohio St.3d 151, 158 (1982)); *see also ARCO Recycling* at ¶ 80 (“The assessment of an appropriate civil penalty lies within the sound discretion of the trial court . . .”), *State ex rel. DeWine v. Deer Lake Mobile Park, Inc.*, 2015-Ohio-1060, ¶ 44 (11th Dist.) (following *Dayton Malleable*).

6. The State has proven by a preponderance of the evidence the four civil penalty factors applied in *Dayton Malleable* and its progeny as set forth below.

7. Regarding the first civil penalty factor, “[t]here is no requirement of proof of actual harm.” *State ex rel. Celebrezze v. Thermal-Tron, Inc.*, 71 Ohio App.3d 11, 20 (8th Dist. 1992). Ohio courts have consistently held that actual harm is not required to justify a penalty, and that threat of harm alone is sufficient. *See State ex rel. Petro v. Mercomp, Inc.*, 167 Ohio

App.3d 64, 73 (8th Dist. 2006); *State ex rel. DeWine v. Deer Lake Mobile Park, Inc.*, 2015-Ohio-1060, ¶ 44 (11th Dist.), citing *Dayton Malleable* at 157.

8. The volume, nature, and location of the waste, combined with Defendants' blatant disregard for permitted limits and instructions to reduce waste, caused a severe risk of harm to the environment and the residents of Belmont County.

9. The second civil penalty factor, recalcitrance, defiance or indifference to the law, reflects the principle that a civil penalty "is supposed to be a deterrent to violation, insofar as the violator is concerned, and an example to others, not just [a] fee which might be considered nothing more than the cost of doing business." *Dayton Malleable*, 1 Ohio St.3d at 157; accord *State ex rel. Cordray v. Morrow Sanitary Co.*, 2011-Ohio-2690, ¶ 15 (5th Dist.); *Big Sky*, 2020-Ohio-4374, at ¶ 43; *Tri-State Group*, 2004-Ohio-4441, at ¶ 104.

10. Defendants exhibited a high level of recalcitrance, defiance, and indifference to the law. This is particularly true from February 7, 2024, when the Division issued a notice of violation to AMS, until March 15, 2024, when the Division returned to the facility, only to find that conditions had not improved but worsened.

11. A trial court may deduce an economic benefit, the third factor, based on the circumstances and presume economic benefit from environmental violations because oftentimes "it is impossible for either the trial court or [the appellate court] to calculate the precise amount of economic benefit [defendants] gained by their non-compliance . . ." *Tri-State Group*, 2004-Ohio-4441 at ¶ 112-14; see also *Deer Lake*, 2015-Ohio-1060, at ¶ 44.

12. Defendants, and Mr. Domitrovitsch in particular, gained an economic benefit from violating Ohio law. Defendants were paid to accept waste at the facility but then avoided the costs of properly disposing of it. They also benefitted by avoiding the costs of cleaning up the

facility, a burden that ultimately fell to the State. Defendants AEPT and Mr. Domitrovitsch received an economic benefit by diverting funds to otherwise unsustainable subsidiaries, which kept alive Mr. Domitrovitsch's hopes of a reverse merger with a Nasdaq-listed company. Had the merger succeeded, Mr. Domitrovitsch would have gained personally by diverting AMS revenue that could have been used to pay the landfills.

13. Regarding the fourth factor, extraordinary enforcement costs are assessed to protect and preserve the self-regulating nature of Ohio's statutory scheme, which is "designed to avoid reaching litigation." *Deer Lake Mobile Park*, 2015-Ohio-1060, at ¶ 48 ("[The statutory scheme] depends on cooperation of the regulated industry through its self-monitoring, self-reporting, and self-correction.").

14. The State has no duty to produce evidence of its exact enforcement costs. *See State ex rel. DeWine v. Sugar*, 2016-Ohio-884, ¶ 58 (7th Dist.) (holding that the extraordinary enforcement costs incurred by the State weigh in favor of a higher civil penalty).

15. The State made extraordinary efforts to bring Defendants into compliance with the law. These efforts included numerous visits to the facility, meeting with potential buyers of the facility, soliciting bids for and managing the facility reclamation and closure, and being heavily involved in the litigation of this matter. This is precisely the type of burden that Ohio's civil penalty statute is designed to address.

16. Defendants amassed 2,818 days of violation. At the daily statutory maximum civil penalty of \$10,000, pursuant to R.C. 1509.33(A), the total maximum civil penalties amount to \$28,180,000.

17. Having considered the four factors articulated in *Dayton Malleable* and the evidence submitted at the hearing, the Court finds the statutory maximum civil penalty to be a

proper civil penalty judgment for Defendants' violations of Ohio's oil and gas laws under R.C. Chapter 1509 and the rules adopted thereunder.

18. The Court's conclusion regarding the maximum civil penalty is further supported by *State ex rel. DeWine v. ARCO Recycling, Inc.*, 2022-Ohio-1758 (8th Dist.). Like the present case, *ARCO Recycling* involved massive piles of potentially harmful waste, a cease-operations order, the State saddled with a multi-million-dollar cleanup, and a central individual whose decisions and motivations were the driving force behind the violations. The trial court imposed, and the Eighth District Court of Appeals affirmed, the statutory maximum civil penalty, at \$10,000 per day of each violation, of over \$21 million.

19. The Court, therefore, finds that the Defendants shall pay \$10,000 per each of 2,818 days of violation, for total civil penalties of \$28,180,000.

20. A party who has violated environmental laws bears the burden of showing a civil penalty would be ruinous or otherwise disabling. *State of Ohio v. Meadowlake Corp.*, 2007-Ohio-6798, ¶ 66 (5th Dist.).

21. Defendants presented no evidence to prove that a civil penalty of \$28,180,000, or of any amount, would be ruinous or otherwise disabling.

Judgment

Therefore, it is **ORDERED, ADJUDGED, AND DECREED** that Defendants shall pay, jointly and severally, to the State of Ohio a civil penalty of twenty-eight million, one hundred and eighty thousand dollars (\$28,180,000) pursuant to R.C. 1509.33(A). Also, as previously determined by this Court, Defendants are, pursuant to R.C. 1509.33(G), jointly and severally liable for \$6,208,049.43 in damages for the reasonable and necessary costs of remediation and closure of the facility. Defendants shall make payment by delivering to Hannah Smith,

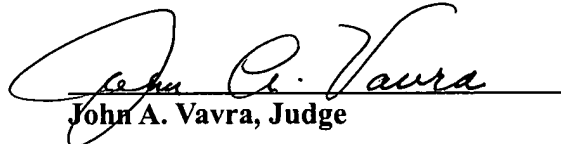
Paralegal, or her successor, Office of the Ohio Attorney General, 30 E. Broad St., 25th Floor, Columbus, Ohio 43215, a certified check for the appropriate amounts, payable to the order of "Treasurer, State of Ohio" within 30 days of the date of the entry of this Order and Entry.

Defendants shall pay all court costs and fees of this action.

The Court shall retain jurisdiction of this action for the purpose of making any order or decree which it may deem necessary at any time to carry out its judgment. All other orders, including the Court's Judgment Entry of December 1, 2025, remain enforceable and in effect.

Pursuant to Civ.R. 58(B), the clerk shall serve the parties with a copy of this **FINAL APPEALABLE ORDER** in a manner prescribed by Civ.R. 5(B) within three days of entering judgment and shall note service in the appearance docket.

It is so ordered.


John A. Vavra, Judge

... **ND**ED

pc: Douglas A. Curran, Attorney for Plaintiff
Brad Domitrovitsch, Pro Se Defendant, for himself and AMS and AEPT