

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

SHOOK, INC., HEAVY &
ENVIRONMENTAL DIVISION,

Plaintiff,

:

Case No. 3:09-cv-210

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

CITY OF MOUNDSVILLE WATER
BOARD,

Defendant.

DISCLOSURE

This civil case has been referred by District Judge Rice for pretrial management under 28 U.S.C. § 636(b) (Doc. No. 14).

The Magistrate Judge wishes to disclose the following facts to counsel: from 1947 until his death in 1977, Robert L. Merz, the Magistrate Judge's father, was an employee of Chas. H. Shook, Inc., the corporate predecessor of the Plaintiff; from 1962 until 1977, he was an owner of 20% of the shares of that entity (all other shareholders held larger percentages). When Robert L. Merz died, his stock was subject to a buyback agreement which was immediately carried out by the undersigned as executor of the estate. The undersigned has never owned any interest in the company. However, he was employed by the company during summers from 1961 through 1967, as were his two brothers during their high school and college years. The undersigned is not aware of which persons are currently active in the ownership or management of the company.

In the undersigned's opinion, these facts are not disqualifying in themselves and do not create an appearance of impropriety if the undersigned remains assigned to the case. In the interest

of candor, the facts are disclosed so that counsel can make their own judgment on that question. Counsel's attention is directed to S. D. Ohio Civ. R. 7.1.1(d). Given Judge Rice's direction in the Preliminary Pretrial Conference Order that a report and recommendations be filed on the pending Motion to Dismiss for Lack of In Personam Jurisdiction "as soon as possible," the parties are urged to consider this matter as promptly as possible.

October 27, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge