

ILLINOIS POLLUTION CONTROL BOARD
January 20, 1994

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 92-84
) (Enforcement)
 BERKSHIRE FURNITURE COMPANY, INC.,)
 a Delaware Corporation,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon an amended complaint filed December 14, 1993, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency (Agency) and the People of the State of Illinois, against Berkshire Furniture Company ("Berkshire"), d/b/a Fashion Bed Group, a Delaware Corporation, formerly known as Allegheny Steel & Brass Corp., regarding Berkshire's facility at 5950 West 51st Street, Stickney, Cook County, Illinois. Berkshire manufactures brass and brass-plated headboards, and provides nickel, chrome, and brass plating and lacquer coating of metal parts and products.

The amended complaint alleges that since approximately 1983: (1) Berkshire emitted volatile organic materials (VOM) from its process causing air pollution in violation of 9(a) of the Illinois Environmental Protection Act (Act) and Board regulations at 35 Ill. Adm. Code §§201.141, 215.204(g) and (j)(1), 218.204(g) and (j)(1); (2) Berkshire allegedly operated without a permit and constructed new emission sources without an Agency construction permit in violation of Section 9(b) of the Act; (3) Berkshire failed to operate in accordance of the new source performance standards set forth in Section 9.1(b) and 9.1(d)(1) of the Act which incorporate the United States Environmental Protection Agency performance standards for surface coating of metal manufacturers; and (4) from July 1991 through March 27, 1992, Berkshire failed to meet the requirements of 35 Ill. Adm. Code §218.211(e) regarding certification, testing, reporting, recordkeeping, and notification of new emission sources.

Pursuant to Section 31(a)(1) of the Act, a joint motion requesting relief from the Act's hearing requirement was filed by the parties on December 14, 1993. Notice of the waiver was published by the Board on December 17, 1993; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

A Stipulation and Settlement Agreement was filed by the

parties on December 14, 1993. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Berkshire does not admit the alleged violations and agrees to pay a civil penalty of ninety-nine thousand nine hundred fifty dollars (\$99,950.00).

Pursuant to the settlement procedure requirements set forth in 35 Ill. Adm. Code 103.180, the Board hereby accepts the settlement agreement as proposed by the parties. The settlement agreement in no way affects the respondent's obligation to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Berkshire Furniture Company, concerning its operations located in Stickney, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The Berkshire Furniture Company shall pay the sum of ninety-nine thousand nine hundred fifty dollars (\$99,950.00) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

Berkshire Furniture Company shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- 3) Berkshire Furniture Company shall cease and desist from the alleged violations.
- 4) Berkshire Furniture Company shall operate and maintain the thermal oxidizer as required by the standard and special conditions of its operating permit.
- 5) For a period of five (5) years from the date of the entry of this order approving the Stipulation and Proposal for Settlement, Berkshire Furniture Company, shall submit to the organizations listed below copies of any and all reports required by this Board's Air Pollution Regulations and by the terms of its operating permits, except that Berkshire shall not be required to submit to such organization copies of any report or portions thereof which are proprietary or confidential or otherwise protected by law from public disclosure. At the same time Berkshire Furniture Company submits each report to the Agency, Berkshire Furniture Company shall send a copy to the organizations listed below at the addresses given below or at such other addresses as are provided to Berkshire Furniture Company in writing by the organizations:

Chicago Legal Clinic,
Inc.
ATTN: Keith Harley
2938 East 91st Street
Chicago Illinois 60617

Citizens Against
Pollution
ATTN: Kathy Serwatka
5842 South Monitor
Chicago, Illinois 60638

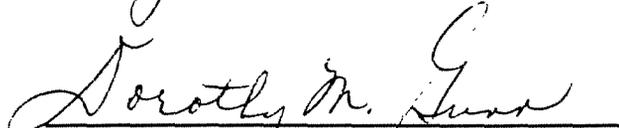
Citizens for a Better Environment
ATTN: Andrew Comai
407 South Dearborn Street
Suite 1775
Chicago, Illinois 60605

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (See also 35 Ill. Adm. Code 101.246, "Motions for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of January, 1994, by a vote of 1-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board