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JUL 30 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 DRAW DRAPE CLEANERS, INC.,)
 an Illinois corporation,)
)
 Respondent.)

STATE OF ILLINOIS
Pollution Control Board

No. PCB 03-51

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on July 30, 2003, the People of the State of Illinois filed with the Illinois Pollution Control Board COMPLAINANT'S MOTION TO REOPEN WRITTEN DISCOVERY, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:



JOEL J. STERNSTEIN
Assistant Attorney General
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)
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 Complainant,)
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DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
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STATE OF ILLINOIS
Pollution Control Board

PCB 03-51
(Enforcement - Air)

MOTION TO REOPEN WRITTEN DISCOVERY

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, hereby requests that the hearing officer issue an order reopening written discovery in the above-identified case for the following reasons.

Holding Proper Parties Responsible

The proper parties must be held responsible for violating the Illinois Environmental Protection Act ("Act"), the regulations thereunder, and the Code of Federal Regulations. Complainant is considering adding Richard J. Zell, Steven M. Press, and/or other individuals as additional defendants in the above-identified case. If these individuals are individually responsible for the alleged violations in the Complaint through their ownership or operation of Draw Drape Cleaners, Inc. ("Draw Drape"), then Complainant must be allowed to name them in the Complaint in addition to Draw Drape. Complainant requires further written discovery with respect to these individuals in

order to determine their culpability for the alleged violations of the Illinois Environmental Protection Act ("Act"), the Pollution Control Board's ("Board") regulations, and the Code of Federal Regulations ("CFR").

Bankruptcy of Draw Drape

Draw Drape has recently disclosed highly relevant information regarding its possible or pending bankruptcy. Bankruptcy raises a new issue which bears directly on any penalties that the Board may eventually award in this matter.

Penalties serve the purpose of aiding in the enforcement of the Act, the Board's regulations, and the CFR. Penalties are imposed on those parties, either corporations or individuals, who are found to have violated the Act.

Section 42(h) of the Act provides as follows:

In determining the appropriate civil penalty to be imposed . . . the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

*

*

*

(4) the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act;

See also People v. Aabott Asbestos, Inc., PCB 99-189 (April 5, 2001); Wasteland Inc. v. Pollution Control Board, 118 Ill.App.3d

1041, 1055, 456 N.E.2d 964, 976 (3d Dist. 1983).

If Complainant cannot reopen written discovery and Draw Drape goes bankrupt, it will be difficult if not impossible to collect a penalty if the Board levies one. Enforcement of the Act, the Board's regulations, and the CFR will suffer as a result.

No Undue Burden or Delay

Complainant is not attempting to needlessly delay the case as this case was filed on October 15, 2002, and the deadline for the first set of written discovery was just over two and a half months ago on May 14, 2003. In its first set of interrogatories, Complainant was well below the limit established for interrogatories in Supreme Court Rule 213(c). Complainant will not unduly burden Respondent with an extensive second written discovery request. Complainant intends to file a second set of interrogatories, request to admit facts, and request to produce documents. However they will be shorter than the first set.

Complainant will be prejudiced if it is not allowed to reopen written discovery. For the foregoing reasons, Complainant respectfully requests that the hearing officer reopen written discovery.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
Ex rel. LISA MADIGAN, Attorney
General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

ROSEMARIE CAZEAU, Chief
Environmental Bureau

BY:

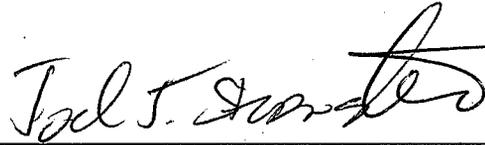


JOEL STERNSTEIN

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CERTIFICATE OF SERVICE

I, JOEL J. STERNSTEIN, an Assistant Attorney General, certify that on the 30th day of July, 2003, I caused to be served by First Class Mail the foregoing COMPLAINANT'S MOTION TO REOPEN WRITTEN DISCOVERY to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



JOEL J. STERNSTEIN