

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS )  
ex rel. GARY W. PACK, )  
McHenry County State's Attorney, )  
 )  
Complainant, )  
vs. )  
 )  
MICHAEL STRINGINI, )  
 )  
Respondent. )

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**APR 14 2004**  
STATE OF ILLINOIS  
Pollution Control Board

PCB 01-43  
(RCRA Enforcement)

**POST HEARING BRIEF**

Complainant seeks a substantial civil penalty against the Respondent in the sum of at least \$200,000.00 and in support of such request states as follows:

**TITLE XII Sec. 42 (h) in determining the appropriate civil penalty to be imposed under subdivisions (a), (b) (1), (b) (2), (b) (3), or (b) (5) of the Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty including but no limited to the following factors:**

**(1) the duration and gravity of the violation;**

Respondent operated an illegal solid waste management site without necessary permits and failed to comply with safety measures required by IEPA for approximately four years.

See Motion for Summary Judgment, Page 3, Paragraph 4.

Hazardous waste remained on the land for a period of between 13 and 18 years.

See Hearing Exhibits 13 and 4

The volume of hazardous waste is substantial.

See Hearing Exhibits 4 and 13

The cost of remediation was in excess of \$600,000.00.

See Hearing Exhibits 1 and 2.

**(2) the presence or absence of due diligence on the part of the violator in attempting to comply with the requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act.**

Respondent did nothing to determine compliance with law and maintains in the face of the Board's Summary Judgment opinion that he was not in violation.

See, Motion for Summary Judgment Page 4, Paragraph 8.

See, Hearing Transcript Page 9, Line 3; Page 87 Line 24 and Page 88, Line 1.

**(3) any economic benefits accrued by the violator because of delay in compliance with requirements.**

Respondent saved more than \$110,000.00

See, testimony of James Moore, Hearing Transcript Page 11, Line 9.

Respondent collected at least \$220,317.88 for his illegal operations.

See, Exhibits 14 through 20.

**(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.**

Respondent is recalcitrant and insists that he did nothing wrong. Therefore a substantial penalty will indicate to the Respondent that he must comply with the IEPA should he continue his metal reclaiming business, which he is currently doing.

See, testimony of Respondent, Hearing Transcript Page 9, Line 4; Page 90 Line 2.  
See also Hearing Exhibits 6 through 11.

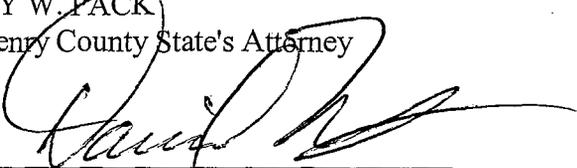
Respondent claims to be without assets. Being judgment proof it is unlikely that he will actually pay any civil penalty imposed.

See, Exhibit 12.

However the existence of a substantial judgment for civil penalties would deter him from securing financing necessary for continuing or expanding his illegal metal reclaiming business. It is also unlikely that the civil penalty judgment could be discharged in bankruptcy. This would further assure that Respondent will be deterred.

A civil penalty of at least \$200,000.00 would give a strong deterrent message to others like Respondent who chooses to ignore the IEPA.

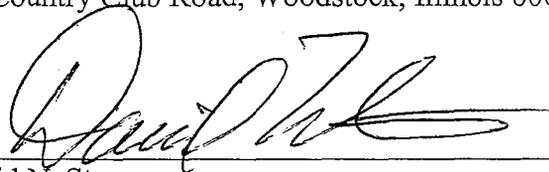
Respectfully submitted,  
GARY W. PACK  
McHenry County State's Attorney

By:   
David N. Stone  
Assistant State's Attorney

CERTIFICATE OF SERVICE

I, David N. Stone, an Assistant State's Attorney in this case, do certify that I caused to be mailed this 12<sup>TH</sup> day of April, 2004, the foregoing POST HEARING BRIEF upon the persons

listed on the attached service list by certified mail in an envelope bearing sufficient postage with the United States Postal Service located at 1050 Country Club Road, Woodstock, Illinois 60098.



David N. Stone

### SERVICE LIST

Case No. PCB 01-43

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INTEREST:

ORIGINAL PLUS NINE COPIES

Defendant

Non record Attorney for IEPA

DATE: April 12, 2004  
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