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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	PCB 01-28
)	
v.)	(Air-Enforcement)
)	
)	
PLASTIC DECORATORS, INC., an)	
Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

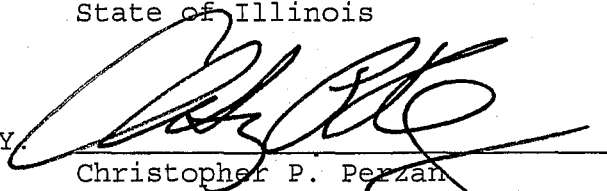
TO: Francis X. Lyons
Gardner, Carton & Douglas
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on December 17, 2004, we filed with the Illinois Pollution Control Board a STIPULATION AND PROPOSAL FOR SETTLEMENT and a MOTION FOR RELIEF FROM HEARING REQUIREMENT, a true and correct copy of which is attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY


Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-3532

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STATE OF ILLINOIS
Pollution Control Board

PCB 01-28

(Air-Enforcement)

Respondent .

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency, and Respondent, PLASTIC DECORATORS, INC., an Illinois corporation, do hereby agree to this Stipulation and Proposal for Settlement. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this agreement. Notwithstanding the previous sentence, this Stipulation and Proposal for Settlement and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action as evidence of a past adjudication of violation of the Illinois Environmental Protection Act ("Act") for purposes

of Section 39(i) and 42(h) of the Act, 415 ILCS 5/39(i), 5/42(h) (2002). This agreement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1, et seq. (2002).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and Proposal for Settlement and to legally bind them to it.

III.

APPLICABILITY

This Stipulation and Proposal for Settlement shall apply to and be binding upon the Complainant and Respondent, and on any officer, director, agent, employee or servant of Respondent, PLASTIC DECORATOR'S, INC. ("PDI"), as well as PDI's successors and assigns. PDI shall not raise as a defense to any enforcement action taken pursuant to this settlement the failure of its officers, directors, agents, servants or employees to take such

action as shall be required to comply with the provisions of this settlement.

IV.

STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois brings this action on her own motion, as well as at the request of the Illinois Environmental Protection Agency ("Agency"), pursuant to the statutory authority vested in her under Section 31 of the Act, 415 ILCS 5/31 (2002).

2. The Agency is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002), which is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, PDI, is a corporation organized under the laws of the State of Illinois.

B. Facility Description

Since at least 1980, Respondent has operated a plastic parts manufacturing operation, located at 1330 Holmes Road, Elgin, Kane County, Illinois. At this facility, PDI operates approximately 32 injection molding machines in which it makes plastic parts for the automotive industry. PDI coats, labels and etches the parts at this facility. PDI also operates a number of spray booths, infra-red material dryers, pad print machines and laser machines.

C. Allegations of Noncompliance

1. Complainant contends that the Defendant has violated the following provisions of the Act and Board Air Regulations:

Count I: Construction of a Major Modification in Violation of New Source Review's Emission Control and Offset Requirements; Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002), 35 Ill. Adm. Code 201.141 and 203.201;

Count II: Construction of Emission Sources Without a Permit; Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 35 Ill. Adm. Code 201.142;

Count III: Operation of Emissions Sources Without a Permit; Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), 35 Ill. Adm. Code 201.143.

Count IV: Construction of a Major Source in Violation of New Source Review's Pre-Construction Review Requirements;

Sections 9(b) and 9.1(d) of the Act, 415 ILCS 5/9(b) and 9.1(d) (2002), 35 Ill. Adm. Code 203.203(a) and (b);

Count V: Failure to Submit Annual Emission Reports; Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), 35 Ill. Adm. Code 201.302, 254.201 and 254.202.

2. Additional Reported Noncompliance

During the pendency of this matter, orally and by letter of April 25, 2003 Respondent disclosed that it emitted volatile organic materials ("VOM") in excess of the limits for its Group III paint spray booths. Respondent emitted 48.05 tons of VOM in 2002, which is 15.7 tpy in excess of the VOM limitation established by Respondent's emission limit in its Clean Air Act Permit Program ("CAAPP") permit. Plaintiff contends that the facts as disclosed by Respondent constituted a violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), 35 Ill. Adm. Code 201.141, 35 Ill. Adm. Code 203.201, 203.301, and 203.302. In addition, the Respondent violated Special Condition 1.1.6(a) of CAAPP Permit 02090019 and Section 9(b) of the Act, 415 ILCS 5/9(b)(2002).

VI.

FUTURE PLANS OF COMPLIANCE

The Illinois EPA issued a joint construction and operation permit to the Respondent on January 4, 1999, with a revised Joint Construction and Operating Permit issued on April 28, 1999. The Respondent obtained CAAPP permit 02090019 on April 30, 1999. See Attachment A. The permit contains emissions limitations that prevent the Respondent's facility from constituting a new major source or major modification to a stationary source for Volatile Organic Materials for specified groups of emissions units.

VII.

IMPACT ON THE PUBLIC RESULTING FROM NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2002), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state:

1. Complainant contends that the impact to the public from the alleged noncompliance was that Respondent constructed and operated emissions sources and air pollution control equipment without compliance with permitting and new source review requirements. The permit process and New Source Review ("NSR") program is the only method available for the State to identify

possible air pollution sources and their control and to ensure that those sources will not contribute to or cause the deterioration of air quality in Illinois. The public was also deprived of relevant information due to the failure to timely file required reports. In addition, the Respondent allowed greater pollutant emissions from one operating group than allowed by permit. The Respondent contends that overall aggregate pollutant emissions from the facility as a whole were less than the aggregate emissions limitations for the facility.

2. The manufacturing operation at the Respondent's facility has social and economic value.

3. The parties agree that the facility is suitable to the area in which it is located when it is operated in compliance with the Act and Board rules.

4. The parties agree that the reduction of the emissions in compliance with the Act, Board rules and permit requirements is both technically practical and reasonable.

5. From late 1995 through 1999 the Respondent took steps to come into compliance. In 1999 the Respondent received the air permits necessary to achieve compliance with permit requirements. Respondent reported additional noncompliance with VOM emission limits in 2002, but reported the noncompliance and took steps to reduce the emissions to comply with the applicable permit limits.

VIII.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2002), provides as follows:

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

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with requirements;
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; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

In response to these factors, the parties state:

1. Complainant contends that the Respondent was out of compliance with the construction and operating permit requirements from 1984 until 1999. Complainant contends that Respondent was out of compliance in that Respondent constructed a new major stationary source and made major modifications to a stationary source without first complying with the New Source Review requirements of 35 Ill.

Adm. Code, Part 203. Complainant contends that Respondent became a major stationary source at least in 1992. Complainant contends that Respondent was out of compliance with reporting requirements. Respondent reported further noncompliance with VOM emission limits in 2002.

2. Respondent began its attempts to achieve compliance with permit requirements in 1995 and achieved compliance with those requirements in 1999. Parties agree that the Respondent made good faith efforts to achieve compliance during that time period. Complainant contends that the Respondent did not show diligence in failing to prevent the additional reported noncompliance in 2002. However, the Respondent did voluntarily report those violations to the Complainant.

3. Complainant contends that the Respondent may have realized a small or modest economic benefit in the form of delayed or avoided compliance costs from the period 1984 through at least 1995. Complainant contends that delayed or avoided costs include the costs of demonstrating compliance for units required to have permits and undertaking necessary measures to limit emissions below applicable New Source Review thresholds. Respondent contends that the economic benefit from delayed costs arising from the Additional Reported Noncompliance (IV.C.) was negligible, in that it achieved compliance by shifting production from Group III paint booths to Group I paint booths in order to meet emissions limits for the respective Groups rather than by installing additional controls or

reducing overall plant-wide emissions. The parties stipulate that the penalty amount agreed to is greater than the total economic benefit arising from delayed and avoided costs.

4. The parties agree that the penalty amount agreed to will deter the Respondent and other persons similarly situated from violations of the Act and the Board rules.

5. The parties agree that there are no known previous violations by the Respondent, other than those addressed in this Stipulation and Proposal for Settlement.

IX.

TERMS OF SETTLEMENT

A. Non-admission

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint, and this Stipulation shall not be interpreted as including such admission.

B. Penalty

1. Respondent, PLASTIC DECORATORS, INC., shall pay a penalty of \$75,000.00 into the Environmental Protection Trust Fund. The penalty shall be paid in the following manner:

- a. First payment of \$20,000.00 due within 30 days of

the Board's order accepting this settlement:

- b. Second payment of \$13,750.00 due 90 days from the penalty payment due date in subparagraph a.;
- c. Third payment of \$13,750.00 due 90 days the penalty payment due date in subparagraph b.;
- d. Fourth payment of \$13,750.00 due 90 days from the penalty payment due date in subparagraph c.;
- e. Fifth payment of \$13,750.00 due 90 days from the penalty payment due date in subparagraph d.:

Payment shall be made by certified check or money order, payable to the Illinois Environmental Protection Agency and designated for deposit into the Environmental Protection Trust Fund, and shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

A copy of said certified check or money order shall also be sent to:

Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, Illinois 60601

2. If the Respondent fails to make any payment specified within Section IX.B.1. of this Consent Order on or before the date upon which the payment is due, the Respondent will be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately.

3. Respondent's Federal Employees Identification Number ("FEIN") is 36-3067919. The FEIN number must be on the certified check or money order. For issues relating to the payment of the penalty, Respondent may be reached at the following address:

PLASTIC DECORATORS INC.
1330 HOLMES RD.
ELGIN IL, 60123

C. Interest on Penalties

1. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g), interest shall accrue on any penalty amount owed by the Defendant not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2002).

2. Interest on unpaid penalties shall begin to accrue from the date the penalty is due and continue to accrue to the date payment is received by the Illinois EPA.

3. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

4. All interest on penalties owed the Plaintiff shall be paid by certified check or money order payable to the Illinois EPA for deposit in the EPTF at the above-indicated address. The name, case number, and the Defendant's FEIN shall appear on the face of the certified check or money order. A copy of the certified check or money order and the transmittal letter shall

be sent to:

Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601

D. Cease and Desist

Respondent shall cease and desist from future violations of the Act and Board regulations and any permit applicable to the Respondent, including but not limited to, those Sections of the Act and Board regulations that were the subject matter of the complaint and additional reported noncompliance as outlined in Section IV.C.1 and 2. of this Stipulation and Proposal for Settlement.

X.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation and Proposal for Settlement in no way affects the Respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and Board regulations.

XI.

RIGHT OF ENTRY

In addition to any other authority, the Agency, its employees and representatives, and the Illinois Attorney General, his agents and representatives, shall have right of entry to PDI's facility at all reasonable times, for the purposes of conducting inspections.

In conducting any inspection of PDI's facility, the Agency, its employees and representatives, and the Attorney General, his agents and representatives, may take any photographs or samples as they deem necessary in order to conduct their inspection.

XII.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of a \$75,000.00 penalty and its commitment to refrain from future violations of the Act and Board regulations, Complainant releases, waives and discharges Respondent from any further liability or penalties for violations of the Act and regulations which were the subject matter of the complaint herein and the violations disclosed by the Respondent as stipulated to in Section IV.C.2, upon the payment of all monies owed. However, nothing in this Stipulation and Proposal for Settlement shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

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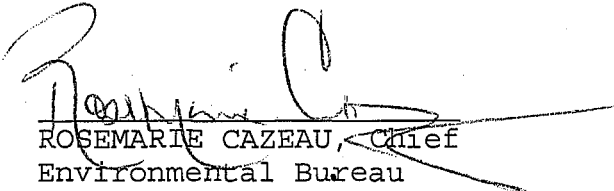
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

AGREED:

FOR THE COMPLAINANT:

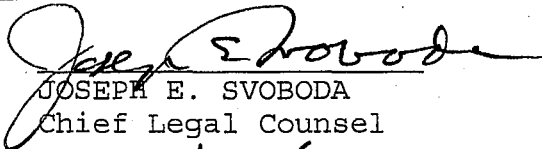
PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois

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

By: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Dated: 11/29/04


ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: 
JOSEPH E. SVOBODA
Chief Legal Counsel

Dated: 11/23/04

FOR THE RESPONDENT:

PLASTIC DECORATORS, INC.
an Illinois corporation

By: 
Its PRESIDENT
FEIN 36-3067919

Dated: 12/10/04

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

v.

PLASTIC DECORATORS, INC., an
Illinois corporation,

Respondent.

PCB 01-28

(Air-Enforcement)

STATE OF ILLINOIS
Pollution Control Board

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), and Section 103.300 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 103.300. In support thereof, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

* * *

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a

stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

(a) Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act [415 ILCS 5/31(c)(2)].

3. On the same date as this Request, the Complainant is filing a Stipulation and Proposal for Settlement with Respondents with the Board.

4. No hearing is currently scheduled in this case.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully requests relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act.

Respectfully submitted,

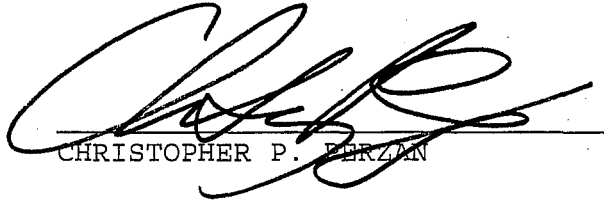
PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:

CHRISTOPHER P. PERZAN
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
(312)814-3532

CERTIFICATE OF SERVICE

I, CHRISTOPHER P. PERZAN, an Assistant Attorney General, certify that on the 12th day of December, 2004, I caused to be served by United States Mail, the foregoing STIPULATION AND PROPOSAL FOR SETTLEMENT and MOTION FOR RELIEF FROM HEARING REQUIREMENT to the party named on the attached Notice of Filing, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.



CHRISTOPHER P. PERZAN