

**Electronic Filing - Received, Clerk's Office, August 26, 2008**

State of Illinois  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

In the Matter of: )  
CASEYVILLE SPORT CHOICE, LLC, )  
An Illinois Limited Liability Company, )  
 )  
Complainant, )  
 )  
vs. ) PCB 2008-030  
 )  
ERMA I. SEIBER, ADMINISTRATRIX )  
OF THE ESTATE OF JAMES A. SEIBER, )  
DECEASED, AND ERMA I. SEIBER, )  
IN HER INDIVIDUAL CAPACITY, and )  
FAIRMOUNT PARK, INC. (formerly )  
known as OGDEN FAIRMOUNT, INC., )  
A Delaware Corporation, )  
 )  
Respondents. )

COMPLAINANT'S WITHDRAWAL  
OF ERRONEOUSLY FILED UNSIGNED *FIRST AMENDED COMPLAINT*  
AND OF ACCOMPANYING *MOTION TO ADD PARTY DEFENDANT*  
*AND FOR LEAVE TO AMEND COMPLAINT,*  
TO PERMIT FILING AND SERVICE OF CORRECT DOCUMENTS

Comes now the complainant, Caseyville Sport Choice, LLC, by its attorneys, Belsheim & Bruckert, L.L.C., and hereby withdraws the unsigned *First Amended Complaint* which it erroneously filed electronically on August 22, 2008, and the accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint* which it also filed electronically on August 22, 2008, so that it can file electronically with the Board – and serve on the party to be added as a defendant, Fairmount Park, Inc., a Delaware corporation – the properly signed *First Amended*

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*Complaint* and an accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint*. In support of this withdrawal of documents, the complainant states the following:

1. The complainant filed a properly signed *First Amended Complaint* and accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint* initially on July 9, 2008, which it did not then serve on the party defendant to be added, Fairmount Park, Inc., a Delaware corporation.

2. The complainant did not then serve the *First Amended Complaint* and *Motion to Add Party Defendant and for Leave to Amend Complaint* because it thought that it must wait for the Board to grant the motion before serving those documents on the party defendant to be added, Fairmount Park, Inc., a Delaware corporation.

3. When the Board did not act on the *Motion to Add Party Defendant and for Leave to Amend Complaint*, the complainant's attorney inquired of the Hearing Officer the reason for the Board's inaction.

4. The Hearing Officer informed the complainant's attorney during the week of August 18, 2008, that the Board would not act on the complainant's *Motion to Add Party Defendant and for Leave to Amend Complaint* until the complainant amended the certificate of service on the *First Amended Complaint* to indicate that the complainant had served it on the party defendant to be added, Fairmount Park, Inc., a Delaware corporation.

5. The complainant refiled the *Motion to Add Party Defendant and for Leave to Amend Complaint* and the *First Amended Complaint* electronically on August 22, 2008, intending merely to update the certificate of service on each document to indicate service on the party defendant to be added, Fairmount Park, Inc., a Delaware corporation.

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6. When the complainant's attorney received the emails from the Board on Monday, August 25, 2008, confirming the refiling of the *Motion to Add Party Defendant and for Leave to Amend Complaint* and the *First Amended Complaint*, he clicked on the hyperlinks contained in the emails to view the documents online at the Board's web site.

7. The complainant's attorney discovered that he had added the updated certificate of service to an unsigned pdf copy of the *First Amended Complaint*, and that he had erroneously filed electronically the unsigned pdf copy of the *First Amended Complaint*.

8. To correct that error, the complainant hereby withdraws the unsigned pdf copy of the *First Amended Complaint* and the accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint* which it filed electronically on August 22, 2008.

9. The complainant refiles (contemporaneously with this document) the signed *First Amended Complaint* and the accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint*, both bearing an updated certificate of service.

10. The complainant also serves again (as indicated in the updated certificates of service) the signed *First Amended Complaint* and accompanying *Motion to Add Party Defendant and for Leave to Amend Complaint* on the party defendant to be added, Fairmount Park, Inc., a Delaware corporation.

CASEYVILLE SPORT CHOICE, LLC,  
An Illinois Limited Liability Company,

By /s/ John P. Long  
John P. Long #1687832  
Belsheim & Bruckert, L.L.C.  
1002 E. Wesley Drive, Suite 100  
O'Fallon, Illinois 62269  
618-624-4221/618-624-1812 Fax  
Attorney for Complainant

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CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served a copy of the foregoing document by depositing the copy of the document in the United States mail at the post office in O'Fallon, Illinois, on August 26, 2008, enclosed in an envelope, with first-class postage thereon fully prepaid, plainly addressed to:

Donald Urban  
Sprague and Urban  
Attorneys at Law  
26 E. Washington Street  
Belleville, IL 62220

and

Illinois Corporation Service Co.  
801 Adlai Stevenson Drive  
Springfield, IL 62703

/s/ John P. Long  
John P. Long #1687832  
Belsheim & Bruckert, L.L.C.  
1002 E. Wesley Drive, Suite 100  
O'Fallon, Illinois 62269  
618-624-4221/618-624-1812 Fax  
Attorney for Complainant