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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

DEC 31 2008
STATE OF ILLINOIS
Pollution Control Board

Illinois EPA,

Complainant,

v.

AC 09-14

Reynolds Service Co., Inc.,

Respondent.

MOTION TO RECONSIDER AND VACATE

On behalf of the Respondent, Reynolds Service Co., Inc., Thomas J. Immel, of the law firm of Feldman, Wasser Draper and Cox, hereby files this Motion to Reconsider and Vacate the Order entered by this Board on December 18, 2008 (and an Order apparently also entered by the Board on December 4, 2008) in the instant case, and in support thereof states as follows:

1. Complainant's Response to Motion to Clarify Record arrived in the undersigned's weekend mail on Saturday, November 22, 2008 and was seen for the first time by the undersigned on Monday, November 24th.
2. Notwithstanding the press of business and the short Thanksgiving Holiday week, the undersigned gathered necessary documents that were responsive to (and contradicted) the Complainant's Response, and prepared a verified Reply to Complainant's Response to Motion to Clarify Record which was sent by Certified Mail to the Board on December 3rd and received by the Board Clerk on December 5th. Because of the press of time involved in assembling

the verified Reply and supporting exhibits, the undersigned inadvertently did not include a Motion for Leave to file the Reply, for which the undersigned apologizes.

3. Unbeknownst to the undersigned, the Board evidently entered an Order on December 4, 2008 which, in substance, denied the pending Motion to Clarify Record and, of course, did not take into consideration the contents of the verified Reply filed by the undersigned on behalf of Respondent.
4. Presumably, no copy of the December 4, 2008 Order was ever sent to the undersigned because it has never been received. The undersigned only learned of a December 4, 2008 Order by reading the Board's December 18th Order when it was received on Christmas Eve, December 24th via certified mail. Said Order refers to a December 4th Order, hitherto unseen.
5. Knowing that whatever Order was entered by the Board on December 4th could not have considered or addressed the important matters contained in the verified Reply which the Board (and Complainant) received the following day, the undersigned files this instant Motion to Reconsider and Vacate so as to protect the rights of the Respondent and to afford the Board the opportunity to make a decision on the Motion to Clarify Record which considers all the factual background necessary to properly decide the matters raised.
6. Therefore, Respondent prays that the Board take the following actions:

- a) Accept the Respondent's verified Reply to Complainant's Response to Motion to Clarify Record for formal filing.
- b) Reconsider and Vacate the Orders entered by the Board on December 4 & 18, 2008.
- c) Decide the Motion to Clarify Record based upon all of the pleadings then on file, including the verified Reply.
- d) Find that the Respondent's Petition for Review is properly before the Board for consideration and order this matter set down for hearing at a time and place mutually convenient to the parties, where the parties may be heard and allowed to develop a record that either does or does not support the allegations of the Administrative Citation.

Respectfully submitted,

Reynolds Service Co., Inc.,

By:



Thomas J. Immel

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Motion to Reconsider & Vacate are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Thomas J. Immel

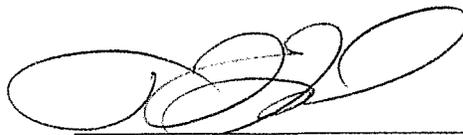
CERTIFICATE OF SERVICE

The undersigned of FELDMAN, WASSER, DRAPER & COX hereby certifies that a copy of the foregoing document was served upon each of the addressees hereinafter set forth by enclosing the same in an envelope plainly addressed to each of the said addresses, with postage fully prepaid, and depositing same in a U.S. Mail Box in Springfield, Illinois on Saturday, the 27th day of December, 2008:

Michelle Ryan
IEPA Bureau of Legal Counsel
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

and that the original and 10 copies was mailed to:

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, IL 60601



Thomas J. Immel