

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION**

COUNTY OF OGLE)
)
COMPLAINANT)
)
v.)
)
RICHARD HAAN)
)
RESPONDENT)

AC 10-016

RECEIVED
CLERK'S OFFICE
MAR 22 2010
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

NOTICE OF FILING

To: Emily Seifert
Assistant State's Attorney
Ogle County State's Attorney's Office
106 S. 5th Street, Suite 110
Oregon, Illinois 61061

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board an Appearance, a Motion to Vacate Default and a Petition for Review, copies of which are herewith served upon you.



Donald B. Delbert

Donald B. Delbert
Attorney at Law
101 North Seventh Street
Oregon, Illinois 61061
815-732-1200

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COUNTY OF OGLE)

COMPLAINANT)

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MOTION TO VACATE DEFAULT

Now comes the Respondent, Richard Haan, by and through his attorney, Donald B. Delbert, and respectfully moves this court for an order vacating the default previously entered in this cause. In support of his motion, the Respondent states as follows:

1. That prior to the entry of default, it was the intention and belief of the parties that an agreement had been reached which would have resolved all of the issues in this cause, subject to board approval.
2. That it was agreed between the parties that the Ogle County State's Attorney would prepare the documents necessary for the agreement.
3. That based upon this belief and the express intentions of the parties, the attorney for the Respondent did not file his Petition for Review, although it had been prepared well in advance.
4. That the State's Attorney emailed the necessary documents to the attorney for the Respondent on March 11, 2010, where they were delivered into the spam account and were unnoticed.
5. The attorney for the respondent was scheduled for and underwent right foot surgery on March 8, 2010, under the mistake belief that the cause was settled by the agreement of the parties.

6. On March 19, 2010, the attorney for the Respondent received a telephone call from the Ogle County State's Attorney informing him that a default order had been entered.

Wherefore, the Respondent prays as follows:

- A. That the Board vacate any and all orders or judgments or defaults previously entered in this cause;
- B. That the Board accept the Stipulation of Settlement which has been executed by the parties;
- C. For any and all other relief equitable and fair.

Respectfully submitted,


Donald B. Delbert

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Attorney at Law
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Oregon, Illinois 61061
815-732-1200

BEFORE THE ILLINOIS POLLUTION BOARD
ADMINISTRATIVE CITATION

COUNTY OF OGLE,)
)
 COMPLAINANT,)
)
 v.)
)
 RICHARD HAAN, JR.,)
)
 RESONDENT.)

AC#

10-16

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 Pollution Control Board
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PETITION FOR REVIEW

Now comes Respondent, Richard Haan, Jr., by and through his attorney, Donald B. Delbert, and respectfully petitions this court for review of the administrative citations issued against him in this cause. In support of this petition for review, Respondent states as follows:

FACTS

1. Respondent admits the facts as contained in Paragraph 1 of the Administrative Citation.
2. Respondent admits the facts as contained in Paragraph 2 of the Administrative Citation.
3. Respondent admits part of the facts contained in Paragraph 3 of the Administrative Citation but specifically denies that he has controlled the facility at all relevant times hereto.
4. Respondent denies that the facility is an open dump, operating without a permit.
5. Respondent is unable to admit or deny the allegations contained in Paragraph 5 of the Administrative Citation.
6. Respondent admits the allegations contained in Paragraph 6 of the Administrative Citation.
7. Respondent admits the allegations contained in Paragraph 7 of the Administrative Citation.

VIOLATIONS

1. The Respondent denies the allegations contained in paragraph 1 of the Administrative Citation.
2. The Respondent denies the allegations contained in paragraph 2 of the Administrative Citation.
3. The Respondent denies the allegations contained in paragraph 3 of the Administrative Citation.

DEFENSES

The Respondent is the owner of a large mobile home park which is occupied by many residents that are employed on and off in the construction trades. Although the respondent is the owner of the mobile home park he does not have dictatorial control over the activities of the residents nor is he aware of all of the activities of the residents. The respondent did not dump, burn or dispose of debris, nor did he permit others to do so.

Further, in the particular area where the alleged violations occurred, the respondent had, prior to the date of the alleged offenses, installed large railroad ties to inhibit the entry on to the land. These railroad ties had been relocated by unknown persons prior to the alleged violations. However, it is not possible for the Respondent to stop others from illegally dumping, burning and disposing of debris on his land. These are uncontrollable circumstances.

WHEREFORE, the Respondent requests a hearing before this board to contest the Administrative Citations issued against him.

Respectfully submitted,


Donald B. Delbert

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