

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
)
CASEYVILLE SPORT CHOICE, LLC,)
An Illinois Limited Liability Company,)
)
Complainant,)
)
v.) **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., a Delaware)
Corporation,)
)
Respondents.)

NOTICE OF FILING

To:

David J. Gerber
Attorney at Law
241 North Main Street
Edwardsville, Illinois 62025
Attorney for Caseyville Sport Choice, LLC

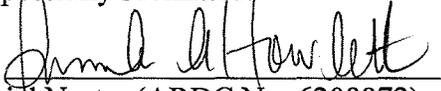
Donald W. Urban
Sprague and Urban
26 E. Washington Street
Belleville, Illinois 62220
Attorneys for Erma I. Seiber

Penni S. Livingston
Attorney at Law
5701 Perrin Road
Fairview Heights, Illinois 62208
Attorney for Fairmount Park, Inc.

PLEASE TAKE NOTICE THAT I have on March 25, 2011 electronically filed with the Office of the Clerk of the Pollution Control Board E.R. 1, LLC, AS ASSIGNEE OF COMPLAINANT CASEYVILLE SPORT CHOICE, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO RESPONDENT FAIRMOUNT PARK, INC., a copy of which is hereby served upon you.

Respectfully submitted,

By:



Daniel Nester (ARDC No. 6208872)

Steven J. Poplawski (ARDC No. 6193897)

Pamela Howlett, Esq. (ARDC No. 6281863)

Christopher Blaesing, Esq.

(ARDC No. 6298240)

Bryan Cave LLP

211 North Broadway, Suite 3600

St. Louis, Missouri 63102

(314) 259-2000

(314) 259-2020 (fax)

*Attorneys for E.R. 1, LLC, As Assignee of
Caseyville Sport Choice, LLC*

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Respondents.)

E.R. 1, LLC, AS ASSIGNEE OF COMPLAINANT CASEYVILLE SPORT CHOICE, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO RESPONDENT FAIRMOUNT PARK, INC.

E.R. 1, LLC, ("E.R. 1") as assignee of Complainant Caseyville Sport Choice, LLC ("CSC"), by and through its undersigned counsel, pursuant to 35 Ill. Admin. Code 101.616 and Illinois Supreme Court Rule 214, hereby serves the following request for production of documents upon Respondent Fairmount Park, Inc. ("Respondent"), to be answered in writing, under oath, within twenty-eight (28) days after service of the request.

I. INSTRUCTIONS

1. In answering these requests for production, furnish all information available to Respondent or her employees, agents, contractors, experts or consultants, or which is ascertainable by reasonable inquiry, whether or not the requested information might be available from another entity.

2. If a request for production cannot be answered in full, answer all parts of the production request to the extent possible and specify the reason for the inability to provide additional information.

3. Respondent is required to serve upon E.R. 1 corrected, supplemented, or augmented answers hereto and documents or other forms of information from whatever source, which arguably tend to show that Respondent's prior answers and production are, might be, were or might have been in a sense incorrect, incomplete, partially misleading, or less than fully responsive or truthful.

4. If any documents responsive to this request no longer are in existence or in your possession, please state the reason that it no longer is in existence and/or the identity of the person presently in possession of the document.

5. If any documents are being withheld because of an alleged privilege, please identify the documents with sufficient specificity so that a decision can be made about whether to pursue a motion to compel concerning the alleged privilege.

6. For purposes of this First Request for Production of Documents, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and." Words in the singular shall be interpreted to include both the singular and the plural. A masculine, feminine or neuter form of a word shall be interpreted to include the other genders. The use of any tense of any verb shall be interpreted to include all other tenses.

II. DEFINITIONS

1. "Communication" means all occasions upon which information was conveyed from one person to another: (a) by means of a document, or (b) verbally, including by means of a telephone or other electrical or mechanical means.

2. "Complainant" shall mean the Complainant listed in the Complaint, and any employee, agent or representative of Complainant.

3. "Document" has the same meaning as in Illinois Supreme Court Rule 214, and includes any written or recorded matter of any kind or description however produced or reproduced, whether draft or final, original or reproduction in your custody or control.

4. "Site" shall mean the property comprised of three parcels of land described in the Complaint.

III. REQUEST FOR PRODUCTION OF DOCUMENTS

1. All pleadings, filings, discovery requests, discovery responses and deposition transcripts filed, served or produced in this action.

2. All documents produced by any party in response to any discovery request (e.g., interrogatory, request for production) in this action.

3. All documents relating to the circumstances and violations alleged in the Complaint, including those that refute the allegations made in the Complaint.

4. All documents related to or supporting Respondent's statements, admissions or denials contained in its Answer to Complainant's Complaint and its Affirmative Defenses.

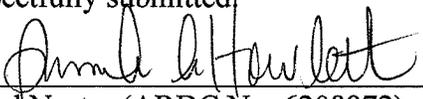
5. All documents and communications between Respondent and James A. Seiber ("Seiber") regarding the arrangement between Respondent and Seiber concerning the disposal of Respondent's waste.

6. All documents and communications relating to any concerns raised or complaints made by any person or entity, including the Illinois Environmental Protection Agency or any local regulatory authority concerning the Site.

7. Verified financial statements for Respondent for the years 2008-present.
8. Documentation regarding whether any of the claims made in the Complaint are covered by insurance.

Dated: March 25, 2011

Respectfully submitted

By: 
Daniel Nester (ARDC No. 6208872)
Steven J. Poplawski (ARDC No. 6193897)
Pamela Howlett, Esq. (ARDC No. 6281863)
Christopher Blaesing, Esq.
(ARDC No. 6298240)

Bryan Cave LLP
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*Attorneys for E.R. 1, LLC, As Assignee of
Caseyville Sport Choice, LLC*

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CERTIFICATE OF SERVICE

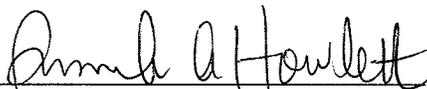
I, the undersigned, on March 25, 2011, caused the foregoing E.R. 1, LLC, AS ASSIGNEE OF COMPLAINANT CASEYVILLE SPORT CHOICE, LLC, FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO RESPONDENT FAIRMOUNT PARK, INC. and NOTICE OF FILING to be electronically filed with the Office of the Clerk, and caused a true and correct copy of said documents to be served upon:

David J. Gerber
Attorney at Law
241 North Main Street
Edwardsville, Illinois 62025
Attorney for Caseyville Sport Choice, LLC

Donald W. Urban
Sprague and Urban
26 E. Washington Street
Belleville, Illinois 62220
Attorneys for Erma I. Seiber

Penni S. Livingston
Attorney at Law
5701 Perrin Road
Fairview Heights, Illinois 62208
Attorney for Fairmount Park, Inc.

By placing same in U.S. Mail at St. Louis, Missouri.



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