

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAR 16 2017

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
COMPLAINANT )  
)  
VERSUS )  
)  
DEMOLITION EXCAVATING )  
GROUP, INC., A DISSOLVED )  
ILLINOIS CORPORATION, )  
EDWARD FISHER, AND )  
RHONDA FISHER, )  
)  
RESPONDENTS )

PCB #2017-046

NOTICE OF FILING

TO: MATTHEW WALKER, ESQ.  
ASSISTANT ATTORNEY GENERAL  
500 SOUTH SECOND STREET  
SPRINGFIELD, IL 62706

PLEASE TAKE NOTICE that on March 14, 2017, I mailed the original of the attached copy of Edward and Rhonda Fisher's motion for summary judgment (all counts) together with the attached proof of service and this notice of filing to the Clerk of the Illinois Pollution Control Board for filing in the case, copies of which are herewith served upon you.

  
\_\_\_\_\_  
GERALD L. HALL, ESQ.  
ATTORNEY FOR EDWARD FISHER  
AND RHONDA FISHER  
524 COURT STREET  
PEKIN, ILLINOIS 61554  
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PHONE: 309-347-1113  
E MAIL: ATTORNEYGERALDHALL  
@GMAILCOM

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MOTION FOR SUMMARY JUDGMENT  
(ALL COUNTS)

NOW COME Edward Fisher (Ed) and Rhonda Fisher (Rhonda), two of the respondents, by Gerald L. Hall, their attorney, and in support of the within motion as to all four counts of the complainant's complaint, he states as follows...

1. That the complainant has brought suit against Demolition Excavating Group, Inc., a dissolved Illinois corporation (the corporation), and Ed and Rhonda individually.

2. That at all times relevant to the complaint, Rhonda was the sole shareholder, officer, and director of the corporation, and Ed never was a shareholder, officer, or director of the corporation and actually volunteered his services to the

corporation.

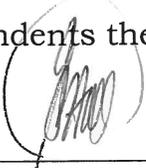
3. That the complaint fails to set forth a valid basis upon which the complainant could seek to impose liability upon Ed and Rhonda individually, more specifically, it would appear from an examination of the complaint that all activities which are complained were conducted by and under the auspices of the corporation, and Ed and/or Rhonda merely are alleged variously to be either closely holding shareholders (Ed and Rhonda--paragraph 6), President and authorized agent (Rhonda—paragraph 7), manager (Ed—paragraph 7), controllers of operations (Ed and Rhonda—paragraph 8), operators (all respondents including Ed and Rhonda—paragraph 10), arrangers for contractors (Ed and Rhonda—paragraph 11), personal supervisors (Ed and Rhonda—paragraph 12), personal performer of demolition work (Ed—paragraph 13), personal supervisor of disposal and demolition (Ed and Rhonda—paragraph 14), personal managers of environmental compliance (Ed and Rhonda—paragraph 15), and maintainer of all records for demolition activities and waste disposal (Rhonda—paragraph 16).

4. That all of the alleged activities as detailed in paragraph #3 above are normal activities of an employee (or volunteer in Ed's case) of a corporation, but none of those activities would cause Ed or Rhonda to be liable for the activities of the corporation any more than an employee of the state of Illinois would be liable to pay any of the state's bills even if that employee helped to incur those bills.

5. That the corporation was financed by Heartland Bank and Trust Company (the bank) which maintained a security interest on all of the assets of the corporation, which said interest the bank has foreclosed and sought to replevy all of the assets of the corporation in Mason County, Illinois case 15-L-4, and, as such, upon the conclusion of that suit, Ed and Rhonda will receive nothing in the way of a liquidating distribution from the corporation that potentially could expose them to liability for other creditors of the corporation to the extent of any such distribution.

6. That the complaint fails to set forth any basis upon which to impose liability upon Ed and Rhonda individually, and, upon such a finding, it would be appropriate that the board award Ed and Rhonda their attorney fees and costs incurred in the defense of the complaint.

WHEREFORE, Edward Fisher and Rhonda Fisher, two of the respondents, by Gerald L. Hall, their attorney, pray that the board enter summary judgment for the two respondents and against the complainant and award the two respondents their attorney fees and costs of suit.



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GERALD L. HALL, ESQ.  
ATTORNEY FOR EDWARD FISHER  
AND RHONDA FISHER

VERIFICATION BY CERTIFICATION

We, Edward Fisher and Rhonda Fisher, two of the respondents, certify under the pains and penalties of perjury that the matters and things set forth in the foregoing answer are true to the best of our information, knowledge, and belief, and if called to testify, we would so state upon our solemn affirmation at any hearing called for such purpose.

  
EDWARD FISHER

  
RHONDA FISHER

  
GERALD L. HALL, ESQ.  
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AND RHONDA FISHER  
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PCB #2017-046

PROOF OF SERVICE

I, Gerald L. Hall, attorney for Edward Fisher and Rhonda Fisher, certify that I served the attached motion for summary judgment (all counts) and the attached notice of filing upon the complainant's counsel by mailing copies thereof to him in an envelope plainly addressed to him at his address as is disclosed by the pleadings, which said envelope was deposited for mailing with proper postage prepaid in a United States Post Office box in Pekin, Illinois on March 14, 2017.



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AND RHONDA FISHER  
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