

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|--|---|---------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| by KWAME RAOUL, Attorney General of the |) | |
| State of Illinois, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB No. |
| |) | |
| YOUTH FAIR CHANCE, INC., d/b/a CAPITOL |) | |
| REUSE CENTER, an Indiana not-for-profit |) | |
| corporation, and DALE ROWDEN, an individual, |) | |
| |) | |
| Respondents. |) | |

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you. **You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.**

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office, or an attorney.

NOTIFICATION - YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of Illinois

By: s/Emma Hudspath
Emma Hudspath
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
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Springfield, Illinois 62701
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Date: December 22, 2020

Service List

For the Respondent

Youth Fair Chance
d/b/a Capitol Reuse Center
c/o Danny Woodcock, Registered Agent
2130 East Clear Lake Avenue
Springfield, IL 62703

Youth Fair Chance
d/b/a Capitol Reuse Center
c/o Danny Woodcock, Registered Agent
701 North Holt Road, Suite 1
Indianapolis, IN 46222-4139

AND

Dale Rowden
313 East Douglas Street
Edinburg, IL 62531

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| by KWAME RAOUL, Attorney General |) | |
| of the State of Illinois, |) | |
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| v. |) | PCB No. |
| |) | |
| YOUTH FAIR CHANCE, INC., |) | |
| d/b/a CAPITOL REUSE CENTER, |) | |
| an Indiana not-for-profit corporation, and |) | |
| DALE ROWDEN, an individual, |) | |
| |) | |
| Respondents. |) | |

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of Respondents, YOUTH FAIR CHANCE, INC. d/b/a CAPITOL REUSE CENTER, an Indiana not-for-profit corporation, and DALE ROWDEN, an individual, as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois EPA, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2018), against Respondent YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, an Indiana not-for-profit corporation.

2. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by Kwame Raoul, Attorney General of the State of Illinois, on his own motion, pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2018), against Respondent DALE ROWDEN, an individual.

3. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

4. The Illinois Pollution Control Board (“Board”) is an independent board created by the General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2018), and charged, *inter alia*, with the duty of determining standards and adopting regulations.

5. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), after providing Respondent, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER (“CRC”), with notice and opportunity for a meeting with Illinois EPA.

6. Respondent, CRC, is an Indiana not-for-profit corporation authorized to transact business in Illinois, with a facility located at property located at 2130 East Clear Lake Avenue, Springfield, Sangamon County, Illinois (“CRC Site”). CRC receives overstock, closeout, or returned household building materials from retailers and then sells the materials for less than the retail price.

7. On February 5, 2019, Illinois EPA was notified by the Sangamon County Department of Public Health that paint cans had been disposed of in a parking lot located at 2521 Stockyard Road, Springfield, Sangamon County, Illinois (“Disposal Site”). The Disposal Site is owned by an Illinois corporation named Design Ideas, Ltd. (“Design Ideas”).

8. On February 5, 2019, Illinois EPA inspected the Disposal Site and observed approximately 150 1-gallon paint cans containing oil-based paint in the parking lot, with the contents of many cans leaking onto the surface of the lot. A representative of Design Ideas was present and advised that it had discovered the cans that morning. The writing on the lid of one of the cans matched the price labeling used by CRC. Illinois EPA then contacted a representative for CRC who advised that CRC had paid Dale Rowden on the evening of February 4, 2019 to dispose of the waste paint.

9. On February 8, 2019, a representative of Design Ideas advised Illinois EPA that CRC personnel had removed the paint cans from the Disposal Site. Illinois EPA then went to inspect the CRC Site. At the CRC Site, Illinois EPA spoke with CRC's Co-Executive Directors, who acknowledged that they had paid one hundred-eighty dollars (\$180.00) to Dale Rowden for the removal of old paint which was found at the Disposal Site on February 5, 2019. Illinois EPA observed pallets of the waste paint from the Disposal Site present at the CRC Site. CRC did not provide any waste determinations or manifests concerning the waste.

10. Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), provides as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

12. Respondent CRC is a not-for-profit corporation and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

13. Respondent Dale Rowden is an individual and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

14. Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), provides, in pertinent part, as follows:

“Waste” means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

15. Section 3.385 of the Act, 415 ILCS 5/3.385 (2018), provides as follows:

“Refuse” means waste.

16. The paint cans and paint, present on the Disposal Site on February 5, 2019, are “discarded material,” and therefore “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), and are therefore also “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2018).

17. Section 3.305 of the Act, 415 ILCS 5/3.305 (2018), provides as follows:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

18. Section 3.460 of the Act, 415 ILCS 5/3.460 (2018), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

19. The Disposal Site is a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2018).

20. Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), provides as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

21. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the Disposal Site in such a manner that waste, or constituents thereof, could enter the environment, be emitted into the air, or be discharged into waters or ground waters. Therefore, “disposal” has occurred at the Disposal Site as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2018).

22. The Disposal Site is a “site” on which waste has been “disposed,” as those terms are defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2018), making

the Disposal Site a “disposal site” as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2018).

23. Section 3.445 of the Act, 415 ILCS 5/3.445 (2018), provides, in pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land . . . without creating nuisances or hazards to public health or safety, by confirming the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulation.

24. Section 3.105 of the Act, 415 ILCS 5/3.105 (2018), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

25. At all times relevant to this Complaint, the Disposal Site has not been permitted by Illinois EPA for the disposal of wastes on land, and therefore is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2018).

26. Beginning prior to February 5, 2019, and on dates better known to Respondents, Respondents caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Disposal Site.

27. By causing or allowing the open dumping of waste at the Disposal Site, Respondents violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, and DALE ROWDEN, on this Count I, as follows:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

B. Finding that the Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018);

C. Ordering Respondents to cease and desist from further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), and an additional civil penalty of up to \$10,000.00 for each day such violation continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-27. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I as paragraphs 1 through 27 of this Count II.

28. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), provides as follows:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter;

29. Discarded materials present at the Disposal Site, such as paint cans and paint, constitute litter.

30. Beginning prior to February 5, 2019, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Disposal Site in violation of

Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), in a manner that resulted in litter, and thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, and DALE ROWDEN on Count II, as follows:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

B. Finding that Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018);

C. Ordering Respondents to cease and desist from further violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT III
HAZARDOUS WASTE VIOLATIONS

1-25. Complainant realleges and incorporates by reference herein paragraph 1, paragraph 3 through 12, and paragraphs 14 through 27 of Count I, as paragraphs 1 through 25 of this Count III.

26. Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018), provides, as follows:

No person shall:

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

* * *

- (2) In violation of any regulations or standards adopted by the Board under this Act...

* * *

- 27. Section 3.480 of the Act, 415 ILCS 5/3.480 (2018), provides as follows:

“Storage” means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute a disposal.

- 28. Section 3.220 of the Act, 415 ILCS 5/3.220 (2018), provides the following definition:

“Hazardous waste” means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, and which has been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations. Potentially infectious medical waste is not a hazardous waste, except for those potentially infectious medical wastes identified by characteristics or listing as hazardous under Section 3001 of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, or pursuant to Board regulations.

- 29. Section 722.118 of the Board Regulations, 35 Ill. Adm. Code 722.118, provides, in pertinent part, as follows:

- (a) An SQG or LQG must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received a USEPA identification number.

- (c) An SQG or LQG must not offer its hazardous waste to a transporter or treatment, storage, or disposal facility that has not received a USEPA identification number.

30. Section 702.110 of the Board Regulations, 35 Ill. Adm. Code 702.110, provides, in pertinent part, the following definitions:

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency, or assigns.

“Hazardous waste” (RCRA) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

“Storage” (RCRA) means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

“Owner or operator” means the owner or operator of any facility or activity subject to regulation under the RCRA... program.

“Permit” means an authorization, license, or equivalent control document issued to implement the requirements of this Part and 35 Ill. Adm. Code 703, 704, and 705. “Permit” includes RCRA permit by rule (35 Ill. Adm. Code 703.141), ...

“Small quantity generator” or “SQG” means a generator that generates the following amounts of material in a calendar month:

Greater than 100 kg (220 lbs) but less than 1,000 kilograms (2,200 lbs) of non-acute hazardous waste;
Less than or equal to 1 kg (2.2 lbs) of acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e); and
Less than or equal to 100 kg (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in 35 Ill Adm. Code 721.131 or 721.133(e).

31. Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103, provides, as follows:

- a) A solid waste... is a hazardous waste if the following is true of the waste:

- 2) It meets any of the following criteria:

- iv) It is a discarded hazardous waste, commercial chemical product or chemical intermediate listed in Section 721.121, ... arising from de minimis losses of these materials....

32. Section 721.121 of the Board Regulations, 35 Ill. Adm. Code 721.121, provides, as follows:

- a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

- 1) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60° C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM D 93-85 (Standard Test Methods for Flash Point by Pensky-Martens Closed Tester), or a Setaflash Closed Cup Tester, using the test method specified in ASTM D 3828-87, (Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester), each incorporated by reference in 35 Ill. Adm. Code 720.111(a).

33. Section 721.102 of the Board Regulations, 35 Ill. Adm. Code 721.102, provides in pertinent part:

- a) Solid Waste

- 1) A solid waste is any discarded material...

- 2) Discarded Material

- A) A discarded material is any material that is described as follows:

- i) It is abandoned...

- ii) It is recycled...
 - iii) It is considered inherently waste-like...
- b) A material is a solid waste if it is abandoned in one of the following ways:
- 1) It is disposed of:

 - 2) It is accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated;

34. The oil-based paint is a solid waste which demonstrates the characteristics of ignitability pursuant to Section 721.121 of the Board Regulations, 35 Ill. Adm. Code 721.121, classifying it as a hazardous waste as defined in Section 721.103 of the Board Regulations, 35 Ill. Adm. Code 721.103.

35. Respondent CRC did not have a USEPA identification number.

36. By storing and disposing of hazardous waste without having a USEPA identification number, Respondent CRC violated Section 722.118(a) of the Board Regulations, 35 Ill. Adm. Code 722.118(a).

37. The individual hired by Respondent CRC to dispose of the paint cans did not have a USEPA identification number.

38. By offering its hazardous waste to a transporter that did not have a USEPA identification number, Respondent CRC violated Section 722.118(c) of the Board Regulations, 35 Ill. Adm. Code 722.118(c).

39. By violating Sections 722.118(a) and 722.118(c) of the Board Regulations, 35 Ill. Adm. Code 722.188(a), (c), Respondent CRC conducted a hazardous waste-storage operation at the CRC Site in violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, on Count III, as follows:

A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018), and Sections 722.118(a) and 722.118(c) of the Board Regulations, 35 Ill. Adm. Code 722.118(a), (c);

C. Ordering the Respondent to cease and desist from further violations of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018), and Sections 722.118(a) and 722.118(c) of the Board Regulations, 35 Ill. Adm. Code 722.118(a), (c);

D. Assessing against Respondent a civil penalty of up to \$25,000.00 per day for each violation of Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (2018), and Sections 722.118(a) and 722.118(c) of the Board Regulations, 35 Ill. Adm. Code 722.118(a), (c), pursuant to Section 42(b)(3) of the Act, 415 ILCS 5/42(b)(3) (2018);

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT IV
ILLEGAL DISPOSAL OF SPECIAL WASTE

1-32. Complainant realleges and incorporates by reference herein paragraphs 1 through 27 of Count I, and paragraphs 30 through 34 of Count III, as paragraphs 1 through 32 of this Count IV.

33. Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), provides as follows:

No person shall:

* * *

- (e) Dispose, treat, store or abandon any waste . . . except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

34. Section 808.121(c)(1) of the Board Regulations, 35. Ill. Adm. Code 808.121(c)(1), provides as follows:

- (c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:
 - (1) At a facility permitted or otherwise authorized to manage the special waste . . .

35. Section 808.110 of the Board Regulations, 35 Ill. Adm. Code 808.110, provides, as follows:

“Hazardous waste” or “RCRA hazardous waste” is as defined in 35 Ill. Adm. Code 721.

“Special waste” means any hazardous waste, and any industrial process waste or pollution control waste which has not been declassified pursuant to Section 808.245.

36. The oil-based paint is a hazardous waste, and therefore a special waste as defined by Section 808.110 of the Board Regulations, 35 Ill. Adm. Code 808.110.

37. The Disposal Site does not have a permit to manage special waste.

38. The Disposal Site is not a site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder for waste disposal.

39. Beginning prior to February 5, 2019, and on dates better known to Respondents, Respondents caused, threatened, or allowed the storage and disposal of special waste at the Disposal Site.

40. By causing, threatening, or allowing the storage and disposal of special waste at the Disposal Site, Respondents have violated Section 808.121(c)(1) of the Board Regulations, 35 Ill. Adm. Code 808.121(c)(1), and thereby violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, and DALE ROWDEN, on Count IV, as follows:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

B. Finding that the Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(c)(1) of the Board Regulations, 35 Ill. Adm. Code 808.121(c)(1);

C. Ordering Respondents to cease and desist from further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(c)(1) of the Board Regulations, 35 Ill. Adm. Code 808.121(c)(1);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Section 808.121(c)(1) of the Board Regulations, 35 Ill. Adm. Code 808.121(c)(1), and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT V
ILLEGAL DELIVERY OF SPECIAL WASTE

1-33. Complainant realleges and incorporates by reference herein paragraph 1, paragraphs 3 through 12, and paragraphs 14 through 27 of Count I; paragraphs 30 through 34 of Count III; and paragraphs 33, 35, and 36 of Count IV, as paragraphs 1 through 33 of this Count V.

34. Section 808.121(b) of the Board Regulations, 35 Ill. Adm. Code 808.121(b), provides, in pertinent part, as follows:

(b) No person shall deliver special waste to a transporter unless the waste is accompanied by a manifest....

35. Respondent CRC delivered special waste to a transporter without an accompanying manifest.

36. By delivering special waste to a transporter without an accompanying manifest, Respondent CRC violated Section 808.121(b) of the Board Regulations, 35 Ill. Adm. Code 808.121(b).

37. Section 808.122 of the Board Regulations, 35 Ill. Adm. Code 808.122, provides, in pertinent part, as follows:

Except as otherwise provided by Section 808.121(b), the generator of any special waste shall prepare a manifest... prior to shipment.

38. Respondent CRC did not prepare a manifest for the paint cans prior to shipment from the CRC Site.

39. By not preparing a manifest prior to the shipment of special waste, Respondent CRC violated Section 808.122 of the Board Regulations, 35 Ill. Adm. Code 808.122.

40. Section 809.301 of the Board Regulations, 35 Ill. Adm. Code 809.301, provides, in pertinent part, as follows:

No person may deliver any special waste generated within Illinois or for disposal, storage, or treatment within Illinois unless that person concurrently delivers a manifest ... to a special waste

transporter who holds a current special waste hauling permit issued by the Agency.

41. The individual hired by Respondent CRC to transport the paint cans did not hold a special waste hauling permit issued by the Agency.

42. By not concurrently delivering a manifest to a hired special waste transporter, Respondent CRC violated Section 809.301 of the Board Regulations, 35 Ill. Adm. Code 809.301.

43. By delivering special waste to a special waste transporter who did not hold a special waste hauling permit issued by the Agency, Respondent CRC violated Section 809.301 of the Board Regulations, 35 Ill. Adm. Code 809.301.

44. By disposing, storing, and/or abandoning special waste in violation of the Board Regulations, Respondent CRC has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, on Count V, as follows:

A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

B. Finding that the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Sections 808.121(b), 808.122, and 809.301 of the Board Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, 809.301;

C. Ordering Respondent to cease and desist from further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Sections 808.121(b), 808.122, and 809.301 of the Board Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, 809.301;

D. Assessing against Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), and Sections 808.121(b), 808.122, and

809.301 of the Board Regulations, 35 Ill. Adm. Code 808.121(b), 808.122, 809.301, and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

COUNT VI
FAILURE TO PERFORM HAZARDOUS OR
SPECIAL WASTE DETERMINATIONS

1-36. Complainant realleges and incorporates by reference herein paragraph 1, paragraphs 3 through 12, and paragraphs 14 through 27 of Count I; paragraphs 27 through 34 of Count III, and paragraphs 33, 35, and 36 of Count IV, as paragraphs 1 through 36 of this Count VI.

37. Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111, provides, in pertinent part:

A person that generates a solid waste ... must make an accurate determination as to whether that waste is a hazardous waste in order to ensure that the waste is properly managed according to applicable RCRA regulations.

38. Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a), provides, in pertinent part, as follows:

a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also Determine if the waste is a hazardous waste.

39. The paint constituted a “discarded material”, and thus was a “solid waste”.

40. Because the paint constituted a “solid waste”, Respondent CRC, as the generator of the waste, was required to make an accurate determination as to whether the paint constituted hazardous waste pursuant to Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111.

41. As a generator of waste, Respondent CRC was required to determine whether the waste was special waste pursuant to 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a).

42. Respondent CRC did not make any determinations as to whether the paint constituted hazardous waste.

43. By not making a determination as to whether the paint constituted hazardous waste, Respondent CRC violated Section 722.111 of the Board Regulations, 35 Ill. Adm. Code 722.111.

44. Respondent CRC did not make any determinations as to whether the paint constituted special waste.

45. By not making a determination as to whether the paint constituted special waste, Respondent CRC violated Section 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 808.121(a).

46. By disposing, storing, and/or abandoning waste without making proper hazardous and special waste determinations for the waste, Respondent CRC has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, YOUTH FAIR CHANCE, INC., d/b/a CAPITOL REUSE CENTER, on Count VI, as follows:

A. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e), and Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111, 808.121(a);

C. Ordering Respondent to cease and desist from further violations of Section 21(e) of the Act, 415 ILCS 5/21(e), and Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111, 808.121(a);

D. Assessing against Respondent a civil penalty of up to \$50,000.00 for each violation of Section 21(e) of the Act, 415 ILCS 5/21(e), and Sections 722.111 and 808.121(a) of the Board Regulations, 35 Ill. Adm. Code 722.111, 808.121(a), and an additional civil penalty of up to \$10,000.00 for each day such violations continued pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board deems appropriate and just.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General of
the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: /s/ Andrew Armstrong
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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2020, I served by certified mail, return receipt requested, a true and correct copy of the documents entitled Complaint, Notice of Filing, and Certificate of Service to:

Youth Fair Chance
d/b/a Capitol Reuse Center
c/o Danny Woodcock, Registered Agent
2130 East Clear Lake Avenue
Springfield, IL 62703

Youth Fair Chance
d/b/a Capitol Reuse Center
c/o Danny Woodcock, Registered Agent
701 North Holt Road, Suite 1
Indianapolis, IN 46222-4139

AND

Dale Rowden
313 East Douglas Street
Edinburg, IL 62531

s/Lilia Brown
Lilia Brown
Administrative Clerk

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 Affidavit of Service 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 she verily believes the same to be true.

s/Lilia Brown
Lilia Brown
Administrative Secretary

