

ILLINOIS POLLUTION CONTROL BOARD
October 24, 1991

JOHN PLOSILA,)
)
Complainant,)
)
v.) PCB 91-172
) (Enforcement)
BANDITO BARNEY'S, FIRST)
AMERICAN BANK (Wallace)
Wolff) under TRUST NO. 89-)
008, and THOM P. McNAMEE)
)
Respondent)

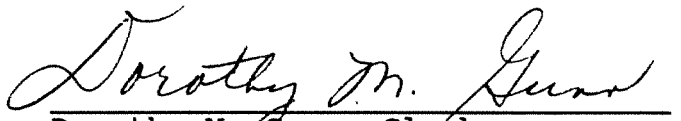
ORDER OF THE BOARD (by J. C. Marlin):

This matter comes before the Board on the September 26, 1991 motion to dismiss filed by the respondent, Thom P. McNamee. In support of the motion, respondent states that the complaint is duplicitous because the "same alleged misconduct" is the basis for a criminal complaint filed in the 16th Judicial Circuit, Kane County, Illinois. The complainant did not file a response.

A complaint is duplicitous when a similar case is pending in another court or in another action before the Board. Although the alleged wrongdoings which form the basis for the court and the Board action are similar in nature, the statute allegedly violated and the relief requested are completely different. In addition, the criminal complaint appears to be for a violation occurring on a specific date while the formal complaint before the Board is for an ongoing violation. The motion to dismiss is denied. This matter is accepted for hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 24th day of October, 1991, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board