

ILLINOIS POLLUTION CONTROL BOARD
June 26, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
) Complainant,)
))
) vs.) PCB 75-144
))
HARRIS HUB COMPANY, INC.,)
))
) Respondent.)

ORDER OF THE BOARD QUASHING SUBPOENA (by Mr. Henss)

The Environmental Protection Agency filed a Complaint against Harris Hub Company, Inc., a manufacturer of steel furniture alleging that the company had operated its paint booth and associated equipment without an operating permit. Respondent apparently conceded that it had in fact operated without the permit.

Prior to hearing the Agency requested the Hearing Officer to issue a Subpoena for Deposition directed to Thomas Reid, Director of Public Affairs of the Illinois Manufacturers' Association. The subpoena commanded Thomas Reid to bring the following:

1. A list of all members of the Illinois Manufacturers' Association for the years 1970 through 1975.
2. Copies of the weekly publication "Executive Memo" sent to members during the years 1971 through 1975.
3. Copies of every bulletin or publication other than the weekly publication "Executive Memo" sent to members since January 1, 1971 dealing with pollution control and regulations or any other environmental matters.
4. Names of members or representatives of member firms attending every conference sponsored by, or in any other way promoted by, Illinois Manufacturers' Association dealing with pollution control and regulations or any other environmental matters.

The Subpoena was issued by the Hearing Officer and subsequently the Illinois Manufacturers' Association filed "Motion to Quash Subpoena".

The Illinois Manufacturers' Association stated that the Subpoena called for material which was irrelevant to the offenses charged in the Complaint; is unreasonable and oppressive; that the application to the Hearing Officer for the issuance of the Subpoena is insufficient in that no facts whatsoever were alleged in support of said application; that to require production of the materials called for in the Subpoena would violate constitutional rights to due process and to freely assemble and petition government; and that Procedural Rule 315 authorizing Hearing Officers to issue subpoenas is beyond the statutory powers granted to the Pollution Control Board.

We find that the Subpoena is over broad and should be quashed. It is unreasonable and oppressive. There are almost no issues in this proceeding against Harris Hub Company. The overwhelming bulk of the material sought from the Illinois Manufacturers' Association would obviously be irrelevant in this case. There is a possibility that a small amount of material might be gleaned from this massive array of documents which could have a minor bearing upon the size of the penalty which might be imposed for a violation. Even that seems speculative.

It is ordered that the Motion of Illinois Manufacturers' Association be allowed. The Subpoena is quashed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted the 26th day of June, 1975 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board