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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 31 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 03-22
)	(Enforcement)
SAINT-GOBAIN CONTAINERS, INC.,)	
a Delaware corporation,)	
)	
Respondent.)	

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

TO: Ms. Dorothy M. Gunn	Carol Sudman, Esq.
Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 West Randolph Street	1021 North Grand Avenue East
Suite 11-500	Post Office Box 19274
Chicago, Illinois 60601	Springfield, Illinois 62794-9274
(VIA FIRST CLASS MAIL)	(VIA FIRST CLASS MAIL)

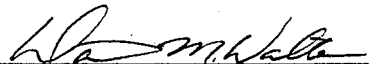
(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today served on the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of SAINT-GOBAIN CONTAINERS, INC.'S MOTION FOR PROTECTIVE ORDER; and AFFIDAVIT OF WRAY C. HISER.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Respondent,

Dated: October 29, 2003

By: 
David M. Walter

N. LaDonna Driver
David M. Walter
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE


I, David M. Walter, the undersigned, hereby certify that I have served the attached SAINT-GOBAIN CONTAINERS, INC.'S MOTION FOR PROTECTIVE ORDER and a copy of an AFFIDAVIT OF WRAY C. HISER upon:

Delbert D. Haschemeyer, Esq.
Assistant Attorney General
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62706

Ms. Dorothy M. Gunn
Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

Carol Sudman, Esq.
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Post Office Box 19274
Springfield, Illinois 62794-9274

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on October 29, 2003.


David M. Walter

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PCB No. 03-22
(Enforcement)

SAINT-GOBAIN CONTAINERS, INC.'S MOTION FOR PROTECTIVE ORDER

NOW COMES the Respondent SAINT-GOBAIN CONTAINERS, INC.

(hereinafter "Saint-Gobain" or "Respondent"), by and through its attorneys, HODGE DWYER ZEMAN, and pursuant to Sections 101.502(a) and 101.614 of the Illinois Pollution Control Board's ("Board") procedural rules (35 Ill. Admin. Code §§ 101.502(a) and 101.614), hereby requests that the Hearing Officer enter an order to protect certain materials from disclosure pursuant to Section 7 of the Illinois Environmental Protection Act (415 ILCS 5/7) and Part 130 of the Board's regulations (35 Ill. Admin. Code Part 130).

1. Saint-Gobain's responses to Complainant's Supplemental Requests for Production in this matter were due October 13, 2003.
2. Saint-Gobain produced for inspection by Complainant numerous documents in response to Complainant's Supplemental Requests for Production.
3. These documents include confidential financial reports and confidential glass manufacturing operation logs, the disclosure of which to certain persons or entities outside such litigation would harm Saint-Gobain's business.

4. Section 101.614 of the Board's procedural rules provides, in pertinent part, as follows:

* * *

The hearing officer will deny, limit or condition the production of information when necessary to prevent undue delay, undue expense, or harassment, or to protect materials from disclosure consistent with Section 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.

35 Ill. Admin. Code § 101.614.

5. "There is ample precedent for the entry of a protective order preventing dissemination of sensitive discoverable materials to third parties or for purposes unrelated to the lawsuit." May Centers, Inc. v. S.G. Adams Printing & Stationery Co., 153 Ill. App. 3d 1018, 1021, 506 N.E.2d 691, 694 (5th Dist. 1987). (Citations omitted.)

6. In light of the above, and in order to prevent disclosure of said confidential documents to the unreasonable disadvantage of Saint-Gobain, Saint-Gobain hereby moves the Hearing Officer enter the Protective Order attached hereto as Exhibit A.

7. This Protective Order does not limit the documents that Saint-Gobain has produced in response to Complainant's Supplemental Requests for Production, nor does it limit in any way Complainant right to use said documents in this litigation against Saint-Gobain filed before the Board; rather, this Protective Order simply governs the disclosure of documents produced by Saint-Gobain to persons and entities outside such litigation, so as to avoid prejudice to Saint-Gobain.


8. Counsel for Saint-Gobain has contacted counsel for the Complainant regarding this Motion, and has allowed counsel for Complainant to examine the documents, but the Complainant has indicated that it will not agree to the entry of any Agreed Protective Order.

9. Saint-Gobain does not make this Motion for purposes of delay or for any other improper purpose, but rather for the reasons stated above.

WHEREFORE, for the above and foregoing reasons, Defendant SAINT-GOBAIN CONTAINERS, INC. hereby moves the Hearing Officer to enter the Protective Order attached hereto as Exhibit A.

Respectfully submitted,

SAINT-GOBAIN CONTAINERS, INC.,
Respondent,

By: 
David M. Walter

Dated: October 29, 2003

N. LaDonna Driver
David M. Walter
HODGE DWYER ZEMAN
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
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SGCO:001/Fil/Motion for Protective Order

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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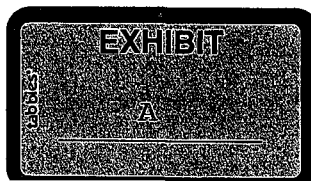
PROTECTIVE ORDER

This cause comes before the Hearing Officer on Respondent SAINT-GOBAIN CONTAINERS, INC.'S ("Saint-Gobain") Motion for Protective Order. Having considered the forgoing, and being duly advised, the Hearing Officer hereby finds that said Motion should be GRANTED.

It is, therefore, ORDERED that documents produced by Saint-Gobain in response to Complainant's Supplemental Requests for Production in this matter are subject to the following Protective Order:

1. Any and all documents that Saint-Gobain produces in response to Complainant's Supplemental Request for Production in this matter, and that Saint-Gobain marks "CONFIDENTIAL: NON-DISCLOSABLE INFORMATION" or "TRADE SECRET" shall be considered "Saint-Gobain Non-Disclosable Information" for purposes of this Order.

2. Any and all confidential financial reports that Saint-Gobain produces in response to Complainant's Supplemental Request for Production in this matter, and that Saint-Gobain marks "CONFIDENTIAL: NON-DISCLOSABLE INFORMATION" shall



be made available to the Complainant for review, but shall not be copied, in whole or in part, by the Complainant without further Order from the Hearing Officer.

3. Complainant and any other party in this case against Saint-Gobain filed before this Board, that receives any Saint-Gobain Non-Disclosable Information pursuant to Saint-Gobain's response to Complainant's Supplemental Requests for Production in this matter, or otherwise:

- (a) shall use such documents only for litigation or settlement of this matter;
- (b) shall store such documents in a manner that will prevent the disclosure of such documents to any person or entity that is not a party to this matter, or to any attorney, employee, or other agent of such person or entity;
- (c) shall not disclose such documents to any person or entity that is not a party to this matter, or to any attorney, employee, or other agent of such person or entity, unless:
 - (i) a Court of competent jurisdiction has ordered such disclosure, or Saint-Gobain has first expressly agreed to such disclosure in writing; and,
 - (ii) the person or entity to whom the documents are to be disclosed has first expressly agreed in writing to be bound by the terms of this Protective Order;
- (d) shall not submit such documents to this Board in support of a Motion or otherwise except under seal;
- (e) shall not present such documents as evidence at the Hearing of this matter or of any future case against Saint-Gobain filed before this Board without:
 - (i) prior notice to Saint-Gobain's counsel; and
 - (ii) consultation with Saint-Gobain's counsel and the Hearing Officer regarding how the documents at issue can be used as evidence at Hearing while preventing the disclosure of such documents to persons or entities that are not parties to this litigation; and,

- (f) shall immediately notify counsel for Saint-Gobain, in writing, of any subpoena from or request by any person or entity that is not a party to this matter seeking, or Order by a Court ordering or regarding, the disclosure of such documents.

4. This order does not limit Complainants' right to disclose Saint-Gobain Non-Disclosable Information to its counsel, or to legal associates, paralegals, clerical or other support staff, or other agents of such counsel, except that:

- (a) such disclosure shall be made only as necessary for the litigation or settlement of such matter; and,
- (b) said persons are also bound by the terms of this Protective Order, and shall be informed of the terms hereof.

ENTERED: _____

Hearing Officer

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 Respondent.)

AFFIDAVIT OF WRAY C. HISER

Wray C. Hiser, being first duly sworn, deposes and states as follows:


1. I am Associate General Counsel for Saint-Gobain Containers, Inc (“Saint-Gobain”).
2. I have reviewed Saint-Gobain’s Motion for Protective Order.
3. Saint-Gobain’s responses to Complainant’s Supplemental Requests for Production in this matter are due October 13, 2003.

2. Saint-Gobain will be producing numerous documents in response to Complainant’s Supplemental Requests for Production.
3. The documents that will be produced include documents that contain confidential data, such as confidential financial reports and confidential glass manufacturing facility operation logs, the disclosure of which to certain persons or entities outside such litigation would harm Saint-Gobain’s business.
4. These confidential documents are protected from disclosure by Saint-Gobain by limiting access to such documents. These documents are considered confidential, and they are only made available to the limited number of Saint-Gobain’s

management, support staff, attorneys, and agents who require access to these documents in order to perform their duties.

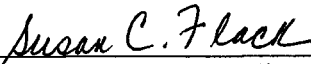
5. These confidential documents have been protected from disclosure to other persons from the date of their creation, through the present.

FURTHER AFFIANT SAYETH NOT.



Wray C. Hiser

Subscribed and sworn to before me
this 10th day of October 2003.



Notary Public

