
Weiss

Berzowski

Brady LLP

ATTORNEYS AT LAW

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FEB 17 2004

STATE OF ILLINOIS
Pollution Control Board

700 North Water St.
Milwaukee, WI 53202-4273
(414) 276-5800
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400 Genesee St., Ste. D
Delafield, WI 53018-1815
(262) 646-5812
(262) 646-3340 Fax

Debra A. Slater
Direct (414) 270-2510
das@wbb-law.com
Reply to Milwaukee

February 13, 2004

VIA OVERNIGHT DELIVERY

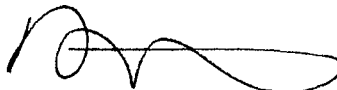
Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

Re: People of the State of Illinois v. Aura II, Inc., et al.
Case No. PCB 04-98
Our File No. 5488-203

Dear Sir or Madam:

I am enclosing an original and 9 copies of: (1) this letter, (2) a Notice of Motion and Motion to Appear *Pro Hac Vice* on Behalf of Aura II, Inc., and (3) Aura II, Inc.'s Notice of Motion and Motion to Stay Proceedings Against it Pending Execution and Approval of a Proposed Stipulation and Settlement Agreement. As the Certificates of Service indicate, true and correct copies of these materials have been served upon the hearing officer, the Assistant Attorney General and counsel for Onyx Environmental Services, Inc.

Very truly yours,



Debra A. Slater

DAS/lmg
enclosures

cc: Mr. Thomas Braier (w/enc.)
Mr. Bradley P. Halloran (w/enc.) - Via Fed Ex
Mr. Greig R. Seldor (w/enc.) - Via Facsimile and U.S. Mail
Mr. Mitchell Feinberg (w/enc.) - Via Facsimile and U.S. Mail
Mr. Zemeheret Bereket-Ab (w/encl.) - Via Facsimile and U.S. Mail
Mr. Michael M. Berzowski (w/encl.)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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FEB 17 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)

v.)

PCB-04-98
(Enforcement-Multimedia)

ONYX ENVIRONMENTAL SERVICES)
LLC, a Delaware limited liability company,)
and AURA II, INC., a)
Wisconsin corporation,)
)
Respondents.)

**NOTICE OF MOTION AND MOTION TO APPEAR *PRO HAC VICE*
ON BEHALF OF AURA II, INC.**

TO: Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

Pursuant to 35 Il. Admin. Code § 101.400(3), Debra A. Slater and the law firm of Weiss Berzowski Brady LLP, respectfully request permission to appear *pro hac vice* as counsel for the respondent, Aura II, Inc. ("Aura"), in the captioned proceedings.

After being duly sworn on oath, Debra A. Slater offers the following in support of this motion:

1. I am an attorney. I have been licensed to practice law in the State of Wisconsin since May 24, 1983.

2. I am a partner and practice in the litigation section at Weiss Berzowski Brady LLP.

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing notice of motion and motion were faxed and mailed, first class, to each of the following on February 13, 2004:

Greig R. Seldor Onyx Environmental Services 700 E. Butterfield, Road, Suite 201 Lombard, IL 60148	Mitchell Feinberg Chuhak & Tecson, P.C. 30 S. Wacker Drive, Suite 2600 Chicago, IL 60606
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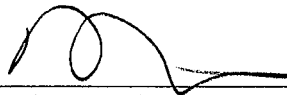
Zemeheret Bereket-Ab
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, IL 60601

It is hereby certified that a true copy of the foregoing notice of motion and motion was served by Federal Express – Overnight Delivery on the following on February 13, 2004:

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
(312) 814-8917

It is hereby certified that this notice of motion and motion along with 9 true copies were served by Federal Express – Overnight Delivery on the following on February 13, 2004:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218



Debra A. Slater
WEISS BERZOWSKI BRADY LLP
700 N. Water Street, Suite 1500
Milwaukee, WI 53202

RECEIVED
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FEB 17 2004
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
v.)
)
ONYX ENVIRONMENTAL SERVICES)
LLC, a Delaware limited liability company,)
and AURA II, INC., a)
Wisconsin corporation,)
)
Respondents.)

PCB-04-98
(Enforcement-Multimedia)

**AURA II, INC.'S NOTICE OF MOTION AND MOTION TO STAY
PROCEEDINGS AGAINST IT PENDING EXECUTION AND APPROVAL OF A
PROPOSED STIPULATION AND SETTLEMENT AGREEMENT**

TO: Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

Pursuant to 35 Il. Admin. Code § 101.514, the respondent, Aura II, Inc. ("Aura"), by its attorneys, Debra A. Slater and Weiss Berzowski Brady LLP, moves the Board for a stay of proceedings against it. Aura seeks a stay for the following reasons:

1. On December 18, 2003, the Complainant filed the Complaint. Before then, Aura's president, Thomas Braier, and the Complainant's counsel, Mr. Zemeheret Bereket-Ab, negotiated the terms of a proposed settlement agreement.

2. On or about December 12, 2003, Mr. Zemeheret Bereket-Ab called Aura's counsel. He stated that notwithstanding the parties' proposed settlement agreement he

would be filing the Complaint. Among other things, he also stated that: (1) Board procedure dictated this process, (2) once the Complaint was filed and served, the parties could finalize their settlement agreement, (3) he was going to be out of the office, and (4) he wanted to notify Aura that the settlement was still on track because it would be receiving the Complaint during his absence.

3. On December 22, 2003, the Complainant served the Complaint upon Aura's counsel by certified mail. Under 35 Il. Admin. Code § 103.204(d), Aura must file and serve its Answer by February 20, 2004.

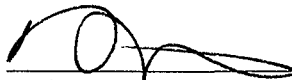
4. By letter dated January 14, 2004, Mr. Bereket-Ab notified Mr. Braier that the Complainant had accepted Aura's settlement offer. He also stated that "[s]hortly, I will draft and circulate, for your review a draft settlement document." Mr. Bereket-Ab sent Aura's counsel a copy of this letter.

5. On or about January 20, 2004, Aura's counsel spoke with Mr. Bereket-Ab regarding the settlement document. There is a critical and specific provision that Aura negotiated in connection with the settlement. Aura wanted to make sure that Mr. Bereket-Ab would include this provision in the draft document. There is also some language that Aura's counsel believes should be included in the draft document and counsel wanted to discuss this with Mr. Bereket-Ab.

6. During their discussion, Mr. Bereket-Ab informed Aura's counsel that procedurally, Aura would have to wait to receive the draft document from the Complainant. He further indicated that Aura should then include these provisions in connection with its response to the entire draft document.

7. Aura has not yet received the draft settlement agreement.
8. On or about February 3, 2004, Aura's counsel received the Hearing Officer Order, which directed the parties to proceed in a telephonic status conference with the hearing officer on February 26, 2004.
9. Among other reasons, Aura agreed to settle with the Complainant in order to avoid the costs and fees it would incur in defending itself in this proceeding.
10. If Aura is required to file its Answer and otherwise participate in continued proceedings pending negotiation and Board approval of a proposed Stipulation and Settlement Agreement, it will be deprived of one of its reasons for settling. If this happens, settlement may no longer be appealing to it.
11. Accordingly, Aura respectfully requests that the Board or the Hearing Officer stay these proceedings against it, pending execution and approval of a proposed Stipulation and Settlement Agreement by a deadline to be set by the Board or Hearing Officer.

Respectfully submitted this 15th day of February 2004.



Debra A. Slater
WEISS BERZOWSKI BRADY LLP,
Attorneys for Aura II, Inc.
700 N. Water Street, Suite 1500
Milwaukee, WI 53202
(414) 276-5800
(414) 270-2510 - facsimile

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Onyx Environmental Services
700 E. Butterfield, Road, Suite 201
Lombard, IL 60148

Mitchell Feinberg
Chuhak & Tecson, P.C.
30 S. Wacker Drive, Suite 2600
Chicago, IL 60606

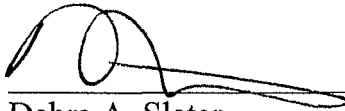
Zemeheret Bereket-Ab
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