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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD SEP 27 2004

STATE OF ILLINOIS
Pollution Control Board

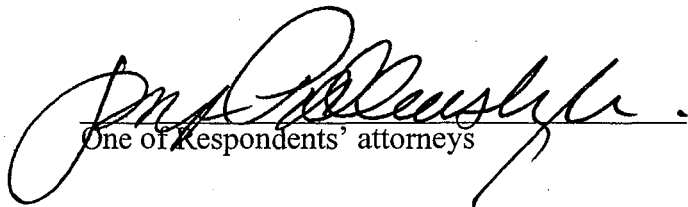
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-13
)	Air Enforcement
PAUL DiFRANCO, SR., an Illinois resident,)	
and MARK'S CONSTRUCTION, INC.,)	
an Illinois corporation,)	
)	
Respondents.)	

NOTICE OF FILING

To: Ms. Katherine A. Kelly
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street
Chicago, Illinois 60601

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601

PLEASE TAKE NOTICE that we have today filed with the Clerk of the Illinois Pollution Control Board the Respondents' Appearance, Respondent Paul DiFranco, Sr.'s Answer to Complaint and Respondent Mark's Construction, Inc.'s Answer to Complaint, copies of which are attached hereto and served upon you.


One of Respondents' attorneys

Joseph R. Podlewski, Jr.
David Seidman
Schwartz, Cooper, Greenberger & Krauss, Chtd.
180 North La Salle
Suite 2700
Chicago, IL 60601
(312) 346-1300
Dated: September 27 2004

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PAUL DiFRANCO, SR., an Illinois resident,)	
and MARK'S CONSTRUCTION, INC.,)	
an Illinois corporation,)	
)	
Respondents.)	

APPEARANCE

Schwartz, Cooper, Greenberger & Krauss, Chtd., hereby files its appearance in this proceeding on behalf of Respondents Paul DiFranco, Sr. and Mark's Construction, Inc.



Joseph R. Podlewski, Jr.
David Seidman
Schwartz, Cooper, Greenberger & Krauss, Chtd.
180 North La Salle
Suite 2700
Chicago, IL 60601
(312) 346-1300
Dated: September __, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
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PEOPLE OF THE STATE OF ILLINOIS,)	
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v.)	PCB 05-13
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PAUL DiFRANCO, SR., an Illinois resident,)	
and MARK'S CONSTRUCTION, INC.,)	
an Illinois corporation,)	
)	
Respondents.)	

RESPONDENT PAUL DiFRANCO, SR.'S ANSWER TO COMPLAINT

Respondent Paul DiFranco, Sr., by his attorneys, Schwartz, Cooper, Greenberger & Krauss, Chtd., and for his answer to the Complaint of the People of the State of Illinois, states as follows:

COUNT I

AIR POLLUTION

1. On information and belief, Paul DiFranco, Sr. ("DiFranco") admits the allegations of Paragraph 1.
2. DiFranco admits the allegations of Paragraph 2.
3. DiFranco denies that he is the record owner of the property and building located at 911 W. Busse, Park Ridge, Illinois (the "Site"). Title to the Site is held by an Illinois land trust. DiFranco denies the allegations of the second sentence of Paragraph 3.
4. DiFranco admits only that Mark's Construction, Inc. ("MCI") conducted certain renovation activities at the Site. To the extent that the allegation in this Paragraph 4 that MCI

was the “operator and supervisor of the renovation” is inconsistent with MCI’s actual activities at the Site, it is denied

5. Without admitting he is the “owner” of the Site, DiFranco admits the allegations of the first sentence of Paragraph 5. With respect to the allegations of the second sentence of Paragraph 5, DiFranco admits only that samples of suspect asbestos-containing material were collected by Bay Environmental. DiFranco lacks knowledge sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

6. DiFranco lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 6.

7. DiFranco lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 7.

8. DiFranco lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 8.

9. DiFranco denies that he retained an asbestos abatement contractor to conduct an asbestos abatement at the Site. DiFranco admits only that asbestos abatement activities were conducted at the Site with the knowledge and concurrence of the Illinois Environmental Protection Agency. DiFranco lacks knowledge sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9.

10. DiFranco lacks knowledge sufficient to form a belief as to the truth of the factual allegations of Paragraph 10. In addition, this paragraph alleges legal conclusions to which no answer is necessary or required.

11. DiFranco admits the allegations of Paragraph 11.

12. DiFranco admits the allegations of Paragraph 12.
13. DiFranco admits the allegations of Paragraph 13.
14. DiFranco admits the allegations of Paragraph 14.
15. DiFranco admits the allegations of Paragraph 15.
16. DiFranco admits the allegations of Paragraph 16.
17. DiFranco admits the allegations of Paragraph 17.
18. Paragraph 18 alleges legal conclusions to which no answer is necessary or required.
19. DiFranco denies he is the record owner of the Site. Title to the Site is held by an Illinois land trust. The remaining allegations of this paragraph are legal conclusions to which no answer is necessary or required.
20. Paragraph 20 alleges legal conclusions to which no answer is necessary or required.
21. Paragraph 21 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Paul DiFranco, Sr. prays that Count I be dismissed

COUNT II

FAILURE TO PROVIDE NOTIFICATION OF DEMOLITION/RENOVATION ACTIVITIES

1-15. DiFranco realleges and incorporates his answers to Paragraphs 1-10 and 13-17 of Count I herein as and for his answers to Paragraphs 1-15 of this Count II.

16. DiFranco admits the allegations of Paragraph 16
17. DiFranco admits the allegations of Paragraph 17.
18. DiFranco admits the allegations of Paragraph 18
19. DiFranco admits the allegations of Paragraph 19
20. On information and belief, DiFranco admits the allegations of Paragraph 20.
21. DiFranco admits the allegations of Paragraph 21. However, DiFranco notes that the citation provided for the asbestos NESHAPs is incomplete.
22. DiFranco admits the allegations of Paragraph 22.
23. Paragraph 23 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 23 alleges facts, they are denied.
24. DiFranco denies he is the record owner of the Site. Title to the Site is held by an Illinois land trust. The remaining allegations of Paragraph 24 allege legal conclusions to which no answer is necessary or required.
25. Paragraph 25 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 25 alleges facts, DiFranco admits only that MCI conducted certain renovation activities at the Site. To the extent that the allegations in this Paragraph 25 that MCI “operated, controlled or supervised” such renovation activities are inconsistent with MCI’s actual activities at the Site, they are denied
26. DiFranco admits the allegations of Paragraph 26.
27. DiFranco admits the allegations of Paragraph 27.

28. DiFranco denies he is the record owner of the Site. DiFranco admits only that no written notice was given to the Illinois Environmental Protection Agency. The implication that such notice was required to have been given by the respondents under the facts alleged in the complaint is a legal conclusion to which no answer is necessary or required..

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Paul DiFranco, Sr. prays that Count II be dismissed

COUNT III

FAILURE TO FOLLOW PROPER EMISSION CONTROL PROCEDURES

1-26. DiFranco realleges and incorporates his answers to Paragraphs 1-26 of Count II herein as and for his answers to Paragraphs 1-26 of this Count III.

27. DiFranco admits the allegations of Paragraph 27.

28. Paragraph 28 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 28 alleges facts, DiFranco admits only that MCI conducted certain renovation activities at the Site. To the extent the allegation in this Paragraph 28 that MCI is an "operator" of such renovation activities is inconsistent with MCI's actual activities at the Site, it is denied DiFranco denies he is the record owner of the Site.

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Paul DiFranco, Sr. prays that Count III be dismissed

COUNT IV

FAILURE TO ADEQUATELY WET ALL RACM

1-26. DiFranco realleges and incorporates his answers to Paragraphs 1-26 of Count II herein as and for his answers to Paragraphs 1-26 of this Count IV.

27. DiFranco admits the allegations of Paragraph 27.

28. The first sentence of this paragraph alleges legal conclusions to which no answer is necessary or required. DiFranco lacks knowledge sufficient to form a belief as to the truth of the factual allegations in the second sentence of this paragraph

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Paul DiFranco, Sr. prays that Count IV be dismissed

COUNT V

FAILURE TO FOLLOW PROPER DISPOSAL PROCEDURES

1-26. DiFranco realleges and incorporates his answers to Paragraphs 1-26 of Count II herein as and for his answers to Paragraphs 1-26 of this Count V.

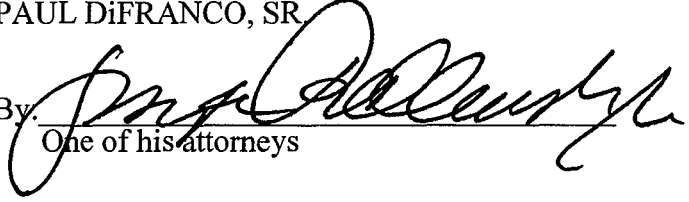
27. DiFranco admits the allegations of Paragraph 27.

28. Paragraph 28 alleges legal conclusions to which no answer is necessary or required.

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Paul DiFranco, Sr. prays that Count V be dismissed

PAUL DiFRANCO, SR

By 
One of his attorneys

Joseph R. Podlewski
David Seidman
Schwartz, Cooper, Greenberger & Krauss, Chtd.
180 North La Salle
Suite 2700
Chicago, IL 60601
(312) 346-1300
Dated: September 27, 2004

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STATE OF ILLINOIS
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PEOPLE OF THE STATE OF ILLINOIS,)
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PAUL DiFRANCO, SR., an Illinois resident,)
and MARK'S CONSTRUCTION, INC.,)
an Illinois corporation,)
)
Respondents.)

PCB 05-13
Air Enforcement

RESPONDENT MARK'S CONSTRUCTION, INC.'S ANSWER TO COMPLAINT

Respondent Mark's Construction, Inc., by its attorneys, Schwartz, Cooper, Greenberger & Krauss, Chtd., and for its answer to the Complaint of the People of the State of Illinois, states as follows:

COUNT I

AIR POLLUTION

1. On information and belief, Mark's Construction, Inc. ("MCI") admits the allegations of Paragraph 1.
2. MCI admits the allegations of Paragraph 2.
3. MCI denies that Respondent Paul DiFranco, Sr. ("DiFranco") is the record owner of the property and building located at 911 W. Busse, Park Ridge, Illinois (the "Site"). Title to the Site is held by an Illinois land trust. MCI denies the allegations of the second sentence of Paragraph 3.

4. MCI admits only that it conducted certain renovation activities at the Site. To the extent that the allegation in this Paragraph 4 that MCI was the “operator and supervisor of the renovation” is inconsistent with MCI’s actual activities at the Site, it is denied

5. Without admitting that DiFranco is the “owner” of the Site, MCI admits the allegations of the first sentence of Paragraph 5. With respect to the allegations of the second sentence of Paragraph 5, MCI admits only that samples of suspect asbestos-containing material were collected by Bay Environmental. MCI lacks knowledge sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

6. MCI lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 6.

7. MCI lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 7.

8. MCI lacks knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 8.

9. MCI denies that DiFranco retained an asbestos abatement contractor to conduct an asbestos abatement at the Site. MCI admits only that asbestos abatement activities were conducted at the Site with the knowledge and concurrence of the Illinois Environmental Protection Agency. MCI lacks knowledge sufficient to form a belief as to the truth of the remaining allegations of Paragraph 9.

10. MCI lacks knowledge sufficient to form a belief as to the truth of the factual allegations of Paragraph 10. In addition, this paragraph alleges legal conclusions to which no answer is necessary or required.

11. MCI admits the allegations of Paragraph 11.
12. MCI admits the allegations of Paragraph 12.
13. MCI admits the allegations of Paragraph 13.
14. MCI admits the allegations of Paragraph 14.
15. MCI admits the allegations of Paragraph 15.
16. MCI admits the allegations of Paragraph 16.
17. MCI admits the allegations of Paragraph 17.
18. Paragraph 18 alleges legal conclusions to which no answer is necessary or required.
19. MCI denies DiFranco is the record owner of the Site. Title to the Site is held by an Illinois land trust. The remaining allegations of this paragraph are legal conclusions to which no answer is necessary or required.
20. Paragraph 20 alleges legal conclusions to which no answer is necessary or required.
21. Paragraph 21 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Mark's Construction Inc. prays that Count I be dismissed.

COUNT II

FAILURE TO PROVIDE NOTIFICATION OF DEMOLITION/RENOVATION ACTIVITIES

1-15. MCI realleges and incorporates its answers to Paragraphs 1-10 and 13-17 of Count I herein as and for its answers to Paragraphs 1-15 of this Count II.

16. MCI admits the allegations of Paragraph 16

17. MCI admits the allegations of Paragraph 17.

18. MCI admits the allegations of Paragraph 18

19. MCI admits the allegations of Paragraph 19

20. On information and belief, MCI admits the allegations of Paragraph 20.

21. MCI admits the allegations of Paragraph 21. However, MCI notes that the citation provided for the asbestos NESHAPs is incomplete.

22. MCI admits the allegations of Paragraph 22.

23. Paragraph 23 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 23 alleges facts, they are denied.

24. MCI denies DiFranco is the record owner of the Site. Title to the Site is held by an Illinois land trust. The remaining allegations of Paragraph 24 allege legal conclusions to which no answer is necessary or required.

25. Paragraph 25 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 25 alleges facts, MCI admits only that it conducted certain renovation activities at the Site. To the extent that the allegations in this Paragraph 25 that MCI

“operated, controlled or supervised” such renovation activities are inconsistent with MCI’s actual activities at the Site, they are denied

26. MCI admits the allegations of Paragraph 26.

27. MCI admits the allegations of Paragraph 27.

28. MCI denies DiFranco is the record owner of the Site. MCI admits only that no written notice was given to the Illinois Environmental Protection Agency. The implication that such notice was required to have been given by the respondents under the facts alleged in the complaint is a legal conclusion to which no answer is necessary or required..

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Mark’s Construction, Inc. prays that Count II be dismissed

COUNT III

FAILURE TO FOLLOW PROPER EMISSION CONTROL PROCEDURES

1-26. MCI realleges and incorporates its answers to Paragraphs 1-26 of Count II herein as and for its answers to Paragraphs 1-26 of this Count III.

27. MCI admits the allegations of Paragraph 27.

28. Paragraph 28 alleges legal conclusions to which no answer is necessary or required. To the extent Paragraph 28 alleges facts, MCI admits only that it conducted certain renovation activities at the Site. To the extent the allegation in this Paragraph 28 that MCI is an “operator” of such renovation activities is inconsistent with MCI’s actual activities at the Site, it is denied MCI denies DiFranco is the record owner of the Site.

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Mark's Construction, Inc. prays that Count III be dismissed.

COUNT IV

FAILURE TO ADEQUATELY WET ALL RACM

1-26. MCI realleges and incorporates its answers to Paragraphs 1-26 of Count II herein as and for its answers to Paragraphs 1-26 of this Count IV.

27. MCI admits the allegations of Paragraph 27.

28. The first sentence of this paragraph alleges legal conclusions to which no answer is necessary or required. MCI lacks knowledge sufficient to form a belief as to the truth of the factual allegations in the second sentence of this paragraph

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Respondent Mark's Construction, Inc. prays that Count IV be dismissed

COUNT V

FAILURE TO FOLLOW PROPER DISPOSAL PROCEDURES

1-26. MCI realleges and incorporates its answers to Paragraphs 1-26 of Count II herein as and for its answers to Paragraphs 1-26 of this Count V.

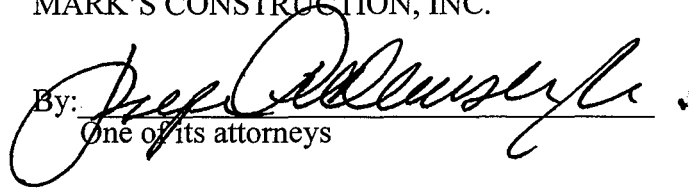
27. MCI admits the allegations of Paragraph 27.

28. Paragraph 28 alleges legal conclusions to which no answer is necessary or required.

29. Paragraph 29 alleges legal conclusions to which no answer is necessary or required.

WHEREFORE, Mark's Construction, Inc. prays that Count V be dismissed

MARK'S CONSTRUCTION, INC.

By: 
One of its attorneys

Joseph R. Podlewski
David Seidman
Schwartz, Cooper, Greenberger & Krauss, Chtd.
180 North La Salle
Suite 2700
Chicago, IL 60601
(312) 346-1300
Dated: September 27, 2004

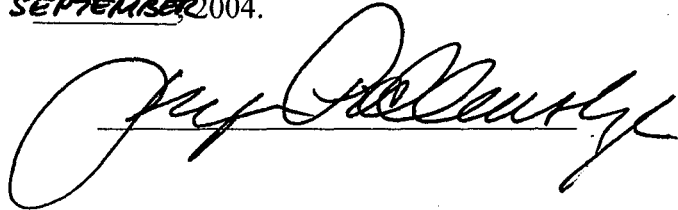
CERTIFICATE OF SERVICE

I, the undersigned, an attorney, certify that I caused a copy of the foregoing Notice of Filing and Respondents' Appearance, Respondent Paul DiFranco, Sr.'s Answer to Complaint and Respondent Mark's Construction, Inc.'s Answer to Complaint to be served upon:

Ms. Katherine A. Kelly
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street
Chicago, Illinois 60601

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601

by enclosing the same in an envelope with first-class postage prepaid, certified mail, return receipt requested and depositing the same in the U.S. Mail Chute located at 180 N. LaSalle Street, Chicago, Illinois, on this 27th day of SEPTEMBER 2004.

A handwritten signature in cursive script, appearing to read "Jay DeLuca", is written over a horizontal line.