

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

MAR 24 2005

STATE OF ILLINOIS  
Pollution Control Board

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

Complainant, )

v. )

GF OFFICE FURNITURE, LTD. L.P., )  
a Limited Partnership, )  
OFFICE SUITES, INC., an Illinois )  
Corporation and Subsidiary of )  
GF Office Furniture, Ltd. L.P., and )  
GF FURNITURE HOLDING, INC., )  
a Foreign Corporation and General )  
Partner of GF Office Furniture, )  
Ltd. L.P., )

Respondents. )

PCB No. 04-135  
(Enforcement - Air)

NOTICE OF FILING

TO: Mr. Edward V. Walsh, III  
Sachnoff & Weaver  
10 South Wacker Drive  
Chicago, Illinois 60606-7507

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

PLEASE TAKE NOTICE that I have today, March 24, 2005, caused to be filed with the Office of the Clerk of the Illinois Pollution Control Board the **Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement**, true and correct copies of which are attached hereto and herewith served upon you.

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

BY:



---

MICHAEL C. PARTEE  
Assistant Attorney General  
Environmental Bureau/North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601  
Tel.: (312)814-2069

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

MAR 24 2005

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
 by LISA MADIGAN, Attorney General )  
 of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 GF OFFICE FURNITURE, LTD. L.P., )  
 a Limited Partnership, )  
 OFFICE SUITES, INC., an Illinois )  
 Corporation and Subsidiary of )  
 GF Office Furniture, Ltd. L.P., and )  
 GF FURNITURE HOLDING, INC., )  
 a Foreign Corporation and General )  
 Partner of GF Office Furniture, )  
 Ltd. L.P., )  
 )  
 Respondents. )

PCB No. 04-135  
(Enforcement - Air)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and hereby moves for relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), and Section 103.300 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 103.300. In support of this Motion, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

\* \* \*

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been

filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

*(a) Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act . . . .*

3. On January 30, 2004, the Complaint was filed on behalf of the People of the State of Illinois with the Board.

4. Simultaneous with the filing of this Motion, a Stipulation and Proposal for Settlement was filed with the Board, and no hearing is currently scheduled in this case.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully moves for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act and Board Procedural Rule 103.300.

Respectfully submitted,

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

BY:



---

MICHAEL C. PARTEE  
Assistant Attorney General  
Environmental Bureau/North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601  
Tel.: (312)814-2069

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

MAR 24 2005

STATE OF ILLINOIS  
Pollution Control Board

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

Complainant, )

v. )

GF OFFICE FURNITURE, LTD. L.P., )  
a Limited Partnership, )  
OFFICE SUITES, INC., an Illinois )  
Corporation and Subsidiary of )  
GF Office Furniture, Ltd. L.P., and )  
GF FURNITURE HOLDING, INC., )  
a Foreign Corporation and General )  
Partner of GF Office Furniture, )  
Ltd. L.P., )

Respondents. )

PCB No. 04-135  
(Enforcement - Air)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and the Respondents, GF OFFICE FURNITURE, LTD. L.P., a limited partnership, OFFICE SUITES, INC. ("Office Suites"), an Illinois corporation and subsidiary of GF Office Furniture, Ltd. L.P., and GF FURNITURE HOLDING, INC., a foreign corporation and general partner of GF Office Furniture, Ltd. L.P., pursuant to 35 Ill. Adm. Code 103.302, do hereby agree to this Stipulation and Proposal for Settlement ("Settlement") and submit it to the Illinois Pollution Control Board ("Board") for acceptance. The parties stipulate that the statement of facts contained herein represents a fair summary of the evidence and testimony that would be introduced by the parties if a hearing were held. The parties further stipulate that the

facts stated herein are made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Settlement nor any of the facts stipulated herein shall be used for any purpose in this or any other proceeding, except to enforce the terms hereof by the parties to this Settlement, and as otherwise provided herein. If the Board accepts and enters this Settlement, the parties agree to be bound by it and not to contest its validity in any subsequent proceeding to implement or enforce its terms, except for purposes of interpretation as provided for under Section VI (Applicability) herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, et seq. (2002).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Settlement and to legally bind them to it. This Settlement may be signed in counterparts, all of which shall be considered one Settlement.

### III.

#### STATEMENT OF FACTS

##### A. Parties

1. On January 30, 2004, a Complaint was filed on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois EPA against Respondents pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002). On February 5, 2004, the Board issued an Order finding that the Complaint met the applicable content requirements and accepting it for hearing.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2002).

3. At all times relevant to the Complaint, Respondent GF Office Furniture, Ltd. L.P., was and is a limited partnership organized in Delaware.

4. At all times relevant to the Complaint, Respondent Office Suites was and is an Illinois corporation and a subsidiary of Respondent GF Office Furniture, Ltd. L.P. At all times relevant to the Complaint, Office Suites was and is the operator of a wood furniture manufacturing facility located at 1034 South Kostner Avenue, Chicago, Cook County, Illinois ("facility").

5. At all times relevant to the Complaint, Respondent GF Furniture Holding, Inc., was and is a Nevada corporation and a general partner of GF Office Furniture, Ltd. L.P. At all times



relevant to the Complaint, GF Furniture Holding, Inc., was and is the owner of the facility.

**B. Facility Description**

1. Since about 1994, seven wood furniture coating spray booths and conveyORIZED infrared drying ovens, an adhesive spray booth, various woodworking equipment, and four natural gas-fired boilers have been operated at the facility.

2. As a result of the woodworking and coating operations at the facility, volatile organic material ("VOM") and particulate matter ("PM") were and are emitted to the environment.

3. On December 20, 2000, pursuant to the Clean Air Act Permit Program ("CAAPP") under Section 39.5 of the Act, 415 ILCS 5/39.5 (2002), the Illinois EPA issued permit no. 96020120 to Office Suites for the facility. CAAPP permit no. 96020120 has an expiration date of December 20, 2005.

4. In relevant part, Section 9.2.1 of CAAPP permit no. 96020120 generally requires compliance with the Act.

5. Section 6.3(b) of CAAPP permit no. 96020120 requires that, in the event the facility's VOM emissions during the ozone seasonal allotment period equal or exceed 10 tons, the facility shall become a participating source in the Emissions Reduction Market System ("ERMS") unless it obtains an exemption from the ERMS.

C. Allegations of Non-Compliance

The Complainant alleges that the Respondents violated the following provisions of the Act, Board's Air Pollution Regulations, and CAAPP permit no. 96020120:

Count I: Causing or allowing air pollution in violation of Section 9(a) of the Act (415 ILCS 5/9(a) (2002)) and Section 201.141 of Board's Air Pollution Regulations (35 Ill. Adm. Code 201.141);

Count II: Failure to participate in the ERMS in violation of Section 39.5 of the Act (415 ILCS 5/39.5 (2002)), Section 205.200 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 205.200), and Section 9.2.1 of CAAPP permit no. 96020120; and

Count III: Failure to apply for an ERMS exemption in violation of Section 39.5 of the Act, Section 205.205 of the Board's Air Pollution Regulations, and Sections 6.3(b) and 9.2.1 of CAAPP permit no. 96020120.

D. Non-admission of Alleged Violations

The Respondents do not admit the violations alleged in the Complaint filed in this case and referenced herein.

IV.

APPLICABILITY

This Settlement shall apply to and be binding upon the Complainant and the Respondents, and any officer, director, agent, or employee of the Respondents, as well as any successors or assigns of the Respondents. The Respondents shall not raise as a defense to any enforcement action taken to enforce this Settlement the failure of any of their officers, directors, agents or

employees to take such action as shall be required to comply with the provisions of this Settlement.

V.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Settlement in no way affects the Respondents' responsibility to comply with any other federal, state or local laws or regulations, including, but not limited to, the Act, regulations promulgated thereunder, and CAAPP permit no. 96020120.

VI.

FORUM

The parties agree that the forum of any action commenced for the purposes of interpretation and enforcement of the terms and conditions of this Settlement shall be the Circuit Court of Cook County, Illinois.

VII.

SEVERABILITY

It is the intent of the parties that the provisions of this Settlement shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining provisions shall remain in full force and effect.

VIII.

FACTS AND CIRCUMSTANCES BEARING UPON THE  
REASONABLENESS OF THE ALLEGED VIOLATIONS

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

(c) In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:

(i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

(ii) the social and economic value of the pollution source;

(iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

(iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and

(v) any subsequent compliance.

In response to the factors set forth in Section 33(c) of the Act, the parties state as follows:

1. This case involved air pollution and the ERMS. Air pollution constitutes an environmental and public health threat. Further, as explained in Section 6.1 of CAAPP permit no. 96020120, the ERMS is a "cap and trade" market system for major stationary sources located in the Chicago ozone nonattainment area. The ERMS is designed to reduce VOM emissions from stationary sources to

contribute to reasonable further progress toward attainment, as required by the Clean Air Act.

2. The manufacture of wood furniture, when done in accordance with the Act, Board's Air Pollution Regulations and applicable CAAPP permit, has social and economic value.

3. Operation of the facility is suitable for the area in which it is located.

4. The reduction of seasonal VOM emissions from the facility and/or the purchase of allotment trading units ("ATUs") within the ERMS for the subject facility's actual seasonal VOM emissions was and is a technically practicable and economic reasonable way of reducing or eliminating the emissions, discharges or deposits from the facility.

5. Subsequent to the time frame of the alleged violations, the Respondents have acted in compliance with the Act, Board's Air Pollution Regulations, and CAAPP permit no. 96020120.

## IX.

### CONSIDERATION OF THE SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

(h) In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or (b)(5) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

(1) the duration and gravity of the violation;

(2) the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

(3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by lowest cost alternative for achieving compliance;

(4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act; and

(5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

(6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and

(7) whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally obligated to perform.

In response to the above factors set forth in Section 42(h) of the Act, the parties state as follows:

1. The Complainant contends that the duration of the ERMS violations was two years, which was a lengthy period of time. The Complainant contends that the gravity of the violations was high because the subject facility is located in the Chicago ozone nonattainment area and because Respondents' failure to hold sufficient ATUs for 2000 and 2001 affected the value of all ATUs

within the ERMS and compromised the integrity of the ERMS. The Complainant also contends that approximately half of the \$30,000 civil penalty against the Respondents is duration and gravity-based.

2. Following the time frame of the violations, the Respondents exhibited due diligence by remedying the violations and exhibited due diligence in its methods of operation thereafter by complying with the requirements of the Act, Board's Air Pollution Regulations, and CAAPP permit no. 96020120.

3. In addition to a civil penalty, Respondent Office Suites agrees to provide emissions excursion compensation to the Illinois EPA, including a late surcharge, pursuant to Section 205.720(b) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.720(b), for the emissions excursions in 2000, 2001 and 2002 in the total amount of \$38,590.26 pursuant to the Illinois EPA's emission compensation notice, dated May 25, 2004. The parties stipulate that this emissions excursion compensation negates any economic benefit accrued by the Respondents because of a delay in compliance with requirements.

4. The Complainant contends that the civil penalty will serve to deter any future violations of the Act, regulations promulgated thereunder, and CAAPP permit no. 96020120, and will enhance voluntary compliance with federal and state environmental laws. The Complainant further contends that approximately half of the \$30,000.00 civil penalty against the Respondents is deterrence-based.

5. Respondents represent that they have no previously adjudicated violations of the Act.

6. Respondents did not voluntarily self-disclose, in accordance with Section 42(i) of the Act, the alleged violations to the Illinois EPA.

7. Respondents have not agreed to undertake a supplemental environmental project in settlement.

X.

TERMS OF SETTLEMENT

A. Penalty

1. Respondent Office Suites shall pay a civil penalty of Thirty Thousand Dollars (\$30,000.00) within 30 calendar days after the date upon which the Board issues a final order accepting this Settlement.

2. Office Suites' civil penalty payment shall be made by check or money order, payable to the Illinois EPA for deposit in the Environmental Protection Trust Fund ("EPTF") and shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

3. The name, case number, and Office Suites' Federal Employer Identification Numbers ("FEIN"), 36-3710942, shall appear on the face of the check or money order. A copy of the check or money order and the transmittal letter shall be sent to:



Michael C. Partee (or other designee)  
Assistant Attorney General  
Environmental Bureau/North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601

4. For purposes of payment and collection, Office Suites  
may be reached at the following address:

Vytas P. Ambutas  
National Material LP  
1965 Pratt Boulevard  
Elk Grove Village, Illinois 60007

5. In the event of default, the Complainant shall be  
entitled to reasonable costs of collection, including reasonable  
attorney's fees, as determined by the Circuit Court.

**B. Interest on Penalties**

1. As required by Section 42(g) of the Act, 415 ILCS  
5/42(g) (2002), interest shall accrue on any penalty amount owed by  
Office Suites not paid within the time prescribed herein, at the  
maximum rate allowable under Section 1003(a) of the Illinois Income  
Tax Act, 35 ILCS 5/1003(a) (2002).

2. Interest on any unpaid penalty shall begin to accrue  
from the date the penalty is due and continue to accrue to the date  
payment is received by the Illinois EPA.

3. Where partial payment is made on the penalty amount that  
is due, such partial payment shall be first applied to any interest  
on the unpaid penalty then owing.

4. All interest on the penalty owed the Complainant shall  
be paid by check or money order payable to the Illinois EPA for  
deposit in the EPTF at the above-indicated address. The name, case  
number, and Office Suites' FEIN shall appear on the face of the

check or money order. A copy of the check or money order and the transmittal letter shall be sent to:

Michael C. Partee (or other designee)  
Assistant Attorney General  
Environmental Bureau/North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601

**C. Future Use**

Notwithstanding any other language in this Settlement, this Settlement may be used against the Respondents, for purposes of Section 39(a), 39(i) and/or 42(h) of the Act, 415 ILCS 5/39(a), 5/39(i) and/or 5/42(h) (2002), in any subsequent enforcement action or permit proceeding as evidence of a past adjudication of violation of the Act and the regulations promulgated thereunder.

**D. Cease and Desist**

The Respondents shall comply with the Act, regulations promulgated thereunder, and CAAPP permit no. 96020120, including but not limited to those sections of the Act, Board's Air Pollution Regulations, and CAAPP permit no. 96020120 that were the subject matter of the Complaint as outlined in Section III.C of this Settlement.

**E. Release from Liability**

1. In consideration of Office Suites' payment of a \$30,000.00 penalty and any accrued interest thereon, and Office Suites' payment of emissions excursion compensation of \$38,590.26, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for alleged violations of the Act, Board's Air Pollution Regulations, and CAAPP permit no.

96020120 that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in the Complainant's Complaint filed simultaneous with this Settlement. The Complainant reserves, and this Settlement is without prejudice to, all rights of the State of Illinois against the Respondents with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- e. liability or claims based on the Respondents' failure to satisfy the requirements of this Settlement.

2. Nothing in this Settlement is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), or entity which is not bound by this Settlement.

**F. Enforcement of Settlement**

1. Upon the acceptance of this Settlement by the Board, any party hereto, upon motion, may reinstate these proceedings solely for the purpose of enforcing the terms and conditions of this Settlement. This Settlement is a binding and enforceable order of

the Board and may be enforced as such through any and all available means.

2. The Respondents agree that notice of any subsequent proceeding to enforce this Settlement may be made by mail and waives any requirement of service of process.

WHEREFORE, the parties, by their representatives, enter into this Settlement and submit it to the Board that it may be accepted and entered.

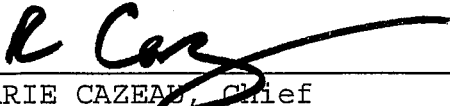
[The remainder of this page should be blank]

AGREED:

FOR THE COMPLAINANT:


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

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau/North  
Assistant Attorney General

DATE: 1/3/05


ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

BY:   
JOSEPH E. SVOBODA  
Chief Legal Counsel

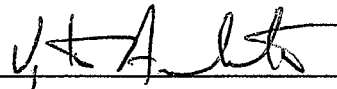
DATE: 12-28-04

FOR THE RESPONDENTS:

GF OFFICE FURNITURE, LTD. L.P.

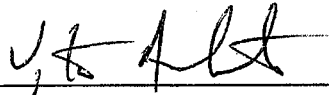
BY:   
ITS: General Counsel  
DATE: 3-8-05

GF OFFICE FURNITURE HOLDING, INC.

BY:   
ITS: SECRETARY  
DATE: 3-8-05

OSI, F/K/A

OFFICE SUITES, INC.

BY:   
ITS: General Counsel  
DATE: 3-8-05

CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing were mailed, first class postage prepaid, to the person listed on the Notice of Filing on March 24, 2005.

BY: Michael C. ParTEE  
MICHAEL C. PARTEE

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on March 24, 2005:

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

BY: Michael C. ParTEE  
MICHAEL C. PARTEE