

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

JUL 22 2005

STATE OF ILLINOIS  
Pollution Control Board

MILLENIUM RECYCLING & SOLID )  
WASTE CONSULTANTS, INC., an )  
Illinois Corporation, SHERI CLEMENTI, )  
Individually and as President of MILLENIUM )  
RECYCLING & SOLID WASTE )  
CONSULTANTS, INC., and MICHAEL )  
LORENCE )

PCB 2002-077

Petitioner, )

v. )

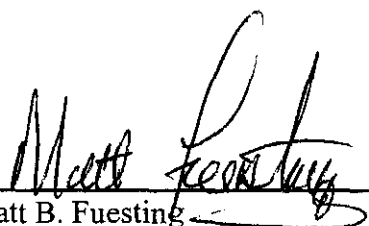
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY )

Respondent )

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE that on this 19<sup>th</sup> day of July, 2005, I mailed to the Clerk of Pollution Control Board, 100 West Randolph Street, James R. Thompson Center, Suite 11-500, Chicago, Illinois 60601-3218, for filing of Petitioner's Motion for Relief From and Review of Final Opinion and Order of Illinois Pollution Control Board of February 19, 2004, a copy of which is herewith served upon you.



Matt B. Fuesting  
Attorney for Petitioner

#46080  
#31633  
KUPISCH & CARBON,  
Ltd.  
ATTORNEYS AT LAW  
201 N. CHURCH ROAD  
BENSENVILLE, IL 60106  
(630) 595-4520  
FAX (630) 595-4598

SERVICE LIST

To: Mr. Stephen J. Sylvester  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601  
312-814-2087

Ms. Sherri Clementi  
1133 Hill Crest Drive  
Carol Stream, IL 60188

Mr. Peter Orlinsky  
Illinois EPA  
9511 W. Harrison  
Des Plaines, IL 60016

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD'S OFFICE

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JUL 22 2005  
STATE OF ILLINOIS  
Pollution Control Board

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Individually and as President of MILLENIUUM )  
RECYCLING & SOLID WASTE )  
CONSULTANTS, INC., and MICHAEL )  
LORENCE )

PCB 2002-077

Petitioner, )

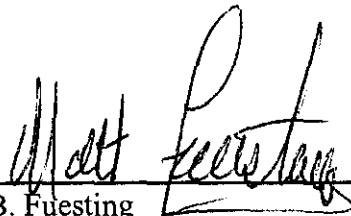
v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY )

Respondent )

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of MICHAEL LORENCE



\_\_\_\_\_  
Matt B. Fuesting  
Attorney for Petitioner

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STATE OF ILLINOIS  
Pollution Control Board

MILLENIUW RECYCLING & SOLID )  
WASTE CONSULTANTS, INC., an )  
Illinois Corporation, SHERI CLEMENTI, )  
Individually and as President of MILLENIUW )  
RECYCLING & SOLID WASTE )  
CONSULTANTS, INC., and MICHAEL )  
LORENCE )

PCB 2002-077

Petitioner, )

v. )

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY )

Respondent )

MOTION FOR RELIEF FROM AND REVIEW OF  
FINAL OPINION AND ORDER

NOW COMES the Petitioner, MICHAEL LORENCE, by and through his attorneys, KUPISCH & CARBON LTD., and as and hereby requests pursuant to 35 Ill. Adm. Code 101.904(b)(3), that the Pollution Control Board relieve said Petitioner from the final order of this Board dated February 19, 2004, for Facts Admitted and Summary Judgment, and states as follows:

1. On information and belief, on December 12, 2001, the office of the Illinois Attorney General on behalf of the People of the State of Illinois and the Illinois Pollution Control Board, filed a four count complaint against Millenium Recycling and Solid Waste Consultants, Incorporated ("Millenium").
2. Said four count complaint alleged that Millenium, caused or allowed open dumping, conducted a waste disposal operation without a permit, disposed of waste at an un-

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permitted facility, and caused or allowed litter in violation of the Illinois Environmental Protection Act sections 21(a), 21(l), 21(e) and 21 (p)(i) of said act.

3. On information and belief, on April 10, 2003, the State of Illinois filed an amended complaint which added Sheri Clementi (“Clementi”) and Michael Lorence (“Lorence”) as Respondents in the case.
4. The State of Illinois subsequently **claimed** that on April 10, 2003, the State of Illinois caused to be mailed a Notice of Filing and Motion For Leave to File an Amended Complaint to Clementi and Lorence at the **same address of 1133 Hillcrest, Carol Stream, Illinois 60188 by certified mail, return receipt requested**. Michael Lorence did not reside at this address on April 10, 2003. Attached and incorporated herein as **Group Exhibit A** is a copy of said Notice of Filing, Proof of Service and Service List.
5. On April 12, 2003, Michael Lorence was un-aware of said proceedings against Millenium.
6. On information and belief, on April 12, 2003, an individual by the name of “Bianco Balasco” signed the receipt for said certified mail. Attached and incorporated herein as **Group Exhibit B** is a copy of a Certificate of Service and said PS form 3811 Domestic Return Receipt.
7. Michael Lorence had no knowledge of said certified mail received and signed by “Bianca Balasko” on April 12, 2002. See the Affidavit marked **Exhibit C** attached hereto and made a part hereof.
8. Title 35 Chapter 1 Section 103, paragraph 204 (a) of the Environmental Protection Provisions states in part:

“Notice, Complaint, and Answer

a) An enforcement proceeding will be commenced by the service of a notice and complaint by registered certified mail, messenger service or professional service **upon all respondents...** (emphasis added)

9. Said notice was not served upon Michael Lorence and as such was ineffective and void, pursuant to Title 35, Chapter 1, Section 163, Paragraph 204 (a) of the Environmental Protection Provisions.

10. Additionally, the Illinois Code of Civil Procedure as stated at 735 ILCS § 5/2-203(a) states as follows:

“§ 2-203. Service on Individuals.

(a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code<sup>1</sup> with respect to violation of an ordinance governing parking or standing of vehicles in cities with a population over 500,000. The certificate of the officer of affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so.”

11. Said service is ineffective upon Michael Lorence and void pursuant to 735 ILCS 5/2-203 (a) of the Illinois Code of Civil Procedure.

12. At no time was Michael Lorence an officer or a director of Millenium Recycling and Solid Waste Consultants, Incorporated.

13. At no time was Michael Lorence a party to any equipment lease, real estate lease or other agreement entered into by Millenium.

14. At no time did Michael Lorence enter into any contractual service obligations on behalf of Millenium.

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15. Clementi was at all relevant times the sole officer, director and owner of Millenium Recycling and Solid Waste Consultants, Incorporated.
16. At no time did Michael Lorence cause or allow open dumping in violation of 415 ILCS §5/21(a).
17. At not time did Michael Lorence conduct a waster disposal operation without a permit in violation of 415 ILCS §5/21(l).
18. At no time did Michael Lorence dispose of waste at an un-permitted facility in violation of 415 ILCS §5/21(e)
19. At not time did Michael Lorence cause or allow litter in violation of 415 ILCS §5/21 (p)(i).
20. Michael Lorence has valid and meritorious defenses.
21. Michael Lorence has acted with due diligence.

WHEREFORE, Petitioner, Michael Lorence moves this Pollution Control Board to grant his Motion for Relief from the Final Order of Facts Admitted and Summary Judgment of February 19, 2004, and for further relief as this BOARD deems just and fair.

Respectfully submitted

By:   
MICHAEL LORENCE

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#31633  
KUPISCH & CARBON,  
Ltd.  
ATTORNEYS AT LAW  
201 N. CHURCH ROAD  
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INDIVIDUAL PLEADING CERTIFICATION

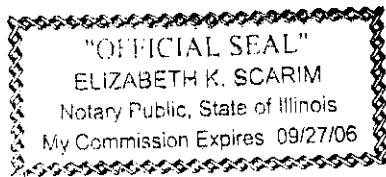
I, Michael Lorence, having been first duly sworn under oath, deposes and states that I have read the foregoing Motion and have personal knowledge of the facts set forth and that the

same is true in substance and fact (except where noted to be on information and belief) to the best of my knowledge and belief.

  
Michael Lorence

Subscribed and Sworn to before me  
This 13<sup>TH</sup> day of July, 2005.

  
Notary Public



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RECEIVED  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

APR 10 2003

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. LISA MADIGAN, Attorney  
General of the State of Illinois,

STATE OF ILLINOIS  
Pollution Control Board

Complainant,

v.

PCB No. 02-77

MILLENIUM RECYCLING & SOLID WASTE  
CONSULTANTS, INC., an Illinois  
Corporation, SHERRI CLEMENTI,  
individually and as President of  
MILLENIUM RECYCLING & SOLID WASTE  
CONSULTANTS, INC., and MICHAEL  
LORENCE individually,

Respondent.

NOTICE OF FILING

To: See Attached Service List

PLEASE TAKE NOTICE that the Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, filed before the Illinois Pollution Control Board, its Motion for Leave to File an Amended Complaint, a true and correct copy of which is attached and hereby served upon you.

Failure to file an answer to this amended complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any ~~questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.~~

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
ex rel. LISA MADIGAN  
Attorney General of the State of  
Illinois

BY: Mitchell L. Cohen

MITCHELL L. COHEN  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph, Suite 2001  
Chicago, Illinois 60601  
(312) 814-5282

DATE: April 10, 2003

THIS FILING SUBMITTED ON RECYCLED PAPER



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,  
ex rel. LISA MADIGAN, Attorney  
General of the State of Illinois,

Complainant,

v.

MILLENIUM RECYCLING & SOLID WASTE  
CONSULTANTS, INC., an Illinois  
Corporation, SHERRI CLEMENTI,  
individually and as President of  
MILLENIUM RECYCLING & SOLID WASTE  
CONSULTANTS, INC., and MICHAEL  
LORENCE individually,

Respondent.

RECEIVED  
CLERK'S OFFICE

NOV 3 2003

STATE OF ILLINOIS  
PCB No. *P21117*  
Pollution Control Board

PROOF OF SERVICE

COMES NOW the Complainant, People of the State of Illinois, and pursuant to the Order of the Board dated October 2, 2003, provides proof of service of the April 10, 2003 Amended Complaint. Attached are copies of the Notice of Filing, Service List, Certificate of Service, and Return Receipts from Respondents Sherri Clementi and Michael Lorence.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
ex rel. LISA MADIGAN  
Attorney General of the State of  
Illinois

BY:



MITCHELL L. COHEN  
Assistant Attorney General  
Environmental Bureau  
188 W. Randolph, Suite 2001  
Chicago, Illinois 60601  
(312) 814-5282

DATE: November 3, 2003

THIS FILING SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Millenium Recycling & Solid Waste Consultants, Inc.  
C/O Sherri Lynn Clementi  
President and Registered Agent  
1133 Hillcrest  
Carol Stream, IL 60188


Sherri Lynn Clementi (Sent Certified Mail)  
1133 Hillcrest  
Carol Stream, IL 60188

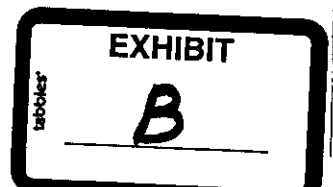
Michael Lorence (Sent Certified Mail)  
1133 Hillcrest  
Carol Stream, IL 60188

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

CERTIFICATE OF SERVICE

I, MITCHELL L. COHEN, an Assistant Attorney General, do certify that I caused to be mailed this 10th day of April, 2003, the foregoing NOTICE OF FILING and Motion for Leave to File an Amended Complaint, by Certified Mail as noted on the Service List and First Class U.S. Mail in a postage prepaid envelope to those listed on the Service list and depositing the same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

  
MITCHELL L. COHEN  
Assistant Attorney General



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Received by (Please Print Clearly)	B. Date of Delivery
1. Article Addressed to: Terri Lynn Clementi 33 Hillcrest Carol Stream, IL 60188	C. Signature X <u>Bianca Balas</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
2. Article Number (Copy from service label) <u>7002 2030 0003 1510 5010</u>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No  <u>4/12/03 Pro</u>	
PS Form 3811, July 1999	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
Domestic Return Receipt <span style="float: right;">102595-99-M-1789</span>		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	A. Received by (Please Print Clearly)	B. Date of Delivery
Article Addressed to: Michael Lorence 133 Hillcrest Carol Stream, IL 60188	C. Signature X <u>Bianca Balas</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
2. Article Number (Copy from service label) <u>7002 2030 0003 1510 5027</u>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No  <u>4/12/03 Pro</u>	
PS Form 3811, July 1999	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
Domestic Return Receipt <span style="float: right;">102595-99-M-1789</span>		

SERVICE ON MENDOTA COMPANY  
 4-12-03

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS	)	
Ex rel. LISA MADIGAN, ATTORNEY	)	
General of the State of Illinois,	)	<b>PCB 2002-077</b>
	)	
Petitioner,	)	
	)	
v.	)	
MILLENIUM RECYCLING & SOLID WASTE	)	
CONSULTANTS, INC., an Illinois corporation,	)	
SHERI CLEMENTI, individually and as President	)	
Of MILLENIUM RECYCLING & SOLID WASTE	)	
CONSULTANTS, INC., and MICHAEL	)	
LORENCE, individually,	)	
	)	
Respondent.	)	

**AFFIDAVIT OF MICHAEL LORENCE**

Under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Code of Civil Procedure, I, Michael Lorence, certify that the statements set forth in this instrument are true and correct.

1. I was not served notice of this lawsuit and as such notice was ineffective and void, pursuant to Title 35, Chapter 1, Section 163, Paragraph 204 (a) of the Environmental Protection Provisions.
  
2. Additionally, the Illinois Code of Civil Procedure as stated at 735 ILCS § 5/2-203(a) states as follows:

“§ 2-203. Service on Individuals.

- (a) Except as otherwise expressly provided, service of summons upon an individual defendant shall be made (1) by leaving a copy of the summons with the defendant personally, (2) by leaving a copy at the defendant's usual place of abode, with some person of the family or a person residing there, of the age of 13 years or upwards, and informing that person of the contents of the summons, provided the officer or other person making service shall also send a copy of the summons in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode, or (3) as provided in Section 1-2-9.2 of the Illinois Municipal Code<sup>1</sup> with respect to violation of an ordinance governing parking or standing of vehicles in cities

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with a population over 500,000. The certificate of the officer of affidavit of the person that he or she has sent the copy in pursuance of this Section is evidence that he or she has done so.”

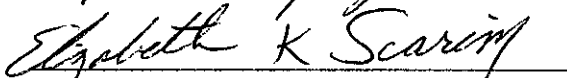
3. Said service is ineffective upon Michael Lorence and void pursuant to 735 ILCS 5/2-203 (a) of the Illinois Code of Civil Procedure.
4. At no time was I an officer or a director of Millenium Recycling and Solid Waste Consultants, Incorporated.
5. At no time was I a party to any equipment lease, real estate lease or other agreement entered into by Millenium.
6. At no time did I enter into any contractual service obligations on behalf of Millenium.
7. Clementi was at all relevant times the sole officer, director and owner of Millenium Recycling and Solid Waste Consultants, Incorporated.

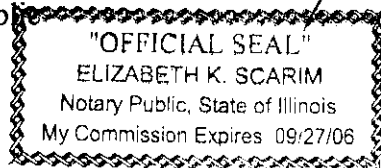
FURTHER AFFIANT SAYETH NAUGHT

Respectfully Submitted,

  
Michael Lorence

SUBSCRIBED and SWORN to before me  
this 19<sup>th</sup> day of July, 2005.

  
Notary Public



#46080  
#31633

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