

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant )  
 )  
 vs. )  
 )  
 INTERSTATE BRANDS CORPORATION, )  
 a Delaware corporation, )  
 )  
 Respondent. )

PCB No. 04-134

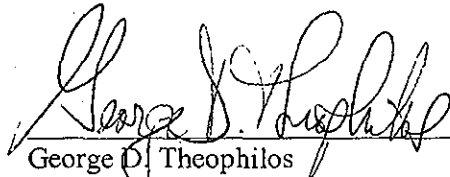
NOTICE OF FILING

To: See attached Service List

PLEASE TAKE NOTICE that on the 27th day of February, 2006 the People of the State of Illinois, filed with the Illinois Pollution Control Board, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and a STIPULATION AND PROPOSAL FOR SETTLEMENT, true and correct copies of which are attached hereto and is hereby served upon you.

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

By:



George D. Theophilos  
 Assistant Attorney General  
 Environmental Bureau  
 188 West Randolph Street, 20<sup>th</sup> Fl.  
 Chicago, IL 60601  
 (312) 814-6986

DATE: February 27, 2006

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

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Illinois Pollution Control Board  
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Illinois Environmental Protection Agency  
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333 West Wacker Drive  
Chicago, IL 60606

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**PEOPLE OF THE STATE OF ILLINOIS,** )  
 )  
 **Complainant** )  
 )  
 **vs.** ) **PCB No. 04-134**  
 )  
 **INTERSTATE BRANDS CORPORATION,** )  
 **a Delaware corporation,** )  
 )  
 **Respondent.** )

**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) (2004), 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 24, 2004, the Complaint in this matter was filed with the Board.

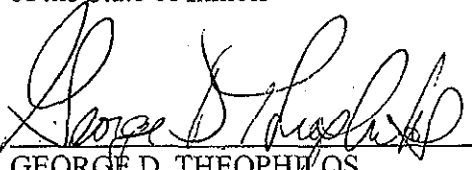
4. Subsequently, the parties to this action reached agreement on a Stipulation and Proposal For Settlement, which is being filed with the Board concurrently with this motion. No hearing is currently scheduled in this case.

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:

  
GEORGE D. THEOPHILOS  
Assistant Attorney General  
Environmental Bureau/North  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601  
312-814-6986

DATE: February 27, 2006

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant</b>	)	
	)	
<b>vs.</b>	)	<b>PCB No. 04-134</b>
	)	
<b>INTERSTATE BRANDS CORPORATION,</b>	)	
<b>a Delaware corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois and Respondent, INTERSTATE BRANDS CORPORATION ("IBC"), do hereby submit this Stipulation and Proposal for Settlement ("Stipulation") to the Illinois Pollution Control Board ("Board") for approval. This Stipulation shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth 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 Stipulation and to legally

bind them to it.

**III.**

**STATEMENT OF FACTS**

**A. PARTIES**

1. The subject Complaint was brought by the Attorney General pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2002).

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 IBC was a Delaware corporation in good standing.

4. At all times relevant to the Complaint, Respondent IBC was the owner and operator of a plant located at 9555 W. Soreng, Schiller Park, Cook County, Illinois ("Facility"). At its Facility, IBC produces and packages for distribution numerous bakery products under the Hostess brand name.

5. Interstate Bakeries Corporation and seven of its subsidiaries and affiliates filed Chapter 11 cases, Case No. 04-45814 (the "Bankruptcy Cases") on September 22, 2004 in the United States Bankruptcy Court for the Western District of Missouri (the "Bankruptcy Court"). Plaintiff has filed a proof of claim in Case No. 04-45814.

6. This Stipulation and Proposal for Settlement is subject to the allowance of a claim in the amount of \$90,000.00 in favor of the Complainant by the Bankruptcy Court in the Bankruptcy Cases, all as more fully described in Section IX, below.

**B. SOURCE DESCRIPTION**

1. IBC had a hot water storage tank ("water tank") at its Facility. The water tank, from which IBC removed insulation material, was approximately 15 feet long and 4 feet in diameter with round ends. The surface area of the water tank was greater than 160 square feet.

2. The water tank was located in the IBC plant's boiler room. The boiler room is located adjacent to the food production area of the plant.

3. Complainant alleges that on January 11, 1998, IBC employees, acting pursuant to instructions from IBC's operations manager, removed friable asbestos-containing insulation material from the water tank.

4. Complainant alleges that on January 11, 1998, IBC employees wheeled the uncontained asbestos-containing insulation material through the plant's production area in an open cart, and in doing so caused the insulation materials to be as close as 10 to 20 feet from the plant's food production lines.

5. Complainant alleges that IBC failed to maintain barriers between the boiler room and the production area while removal of the insulation material took place.

6. Inspectors from the Illinois Department of Public Health ("IDPH") and Cook County Environmental Control Department ("CCECD") inspected the IBC Facility on January 23, 1998.

7. Complainant alleges that the IDPH inspector observed gross debris, which included chunks, dust and various sized pieces of suspect asbestos-containing building material on floors and other horizontal surfaces in the boiler room. Some of the pieces of the insulation material that the IDPH inspector observed were the size of a baseball. Complainant alleges that the IDPH inspector also observed uncovered finished bakery products outside the boiler room within 20 feet of where

the removal of the insulation material had taken place. Complainant alleges that the CCECD inspector observed a pile of grey fibrous suspect asbestos material under the water tank in the boiler room. The pile of suspect debris was approximately 4 inches high, 6 feet long and 1 foot wide. Complainant alleges that the insulation material tested positive for the presence of asbestos.

8. The IDPH inspector took three (3) samples of suspect material found lying on the floor in the boiler room. Complainant alleges that all three of the IDPH inspector's samples tested positive for asbestos. The CCECD inspector took two (2) samples of the suspect debris. Complainant alleges that both of those samples tested positive for asbestos.

9. As observed by both inspectors, Complainant alleges that IBC caused or allowed friable asbestos material to be deposited, uncontained, on the floor in the boiler room at the IBC Facility.

10. Complainant alleges that Respondent caused, threatened and allowed asbestos fibers to be released into the environment.

11. Respondent denies the allegations and claims that the suspect material found by IDPH and CCDEC was placed in the boiler room by unknown parties two weeks after the January 11, 1998 incident. Respondent further disputes the chain of custody for such samples. Respondent alleges that subsequent testing revealed that none of its food product from the relevant time period was found to be contaminated with asbestos.

### **C. VIOLATIONS**

This Stipulation is intended to resolve the allegations in the Complaint filed in this matter. The Complaint alleges violations of the Act and of the Board's Air Pollution Regulations outlined as follows:



- COUNT I Failure to follow the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) renovation notification requirements in violation of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(1) (2002), and Section 61.145(b) of the NESHAP, 40 CFR 61.145(b);
- COUNT II Failure to remove regulated asbestos-containing material (RACM) before renovation begins in violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2002), and Section 61.145(c)(1) of the asbestos NESHAP, 40 CFR 61.145(c)(1);
- COUNT III Failure to adequately wet RACM in violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2002), and Section 61.145(c)(3) and (c)(6) of the asbestos NESHAP, 40 CFR 61.145(c)(3) and (c)(6);
- COUNT IV Failure to have an adequately trained person present for RACM removal in violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2002), and Section 61.145(c)(8) of the asbestos NESHAP, 40 CFR 61.145(c)(8);
- COUNT V Failure to follow waste disposal procedures in violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2002), and Section 61.150(a) of the asbestos NESHAP, 40 CFR 61.150(a);
- COUNT VI Air pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 201.141 of the Board Regulations, 35 Ill. Adm. Code 201.141;

**IV.**

**APPLICABILITY**

This Stipulation shall apply to and be binding upon Complainant and Respondent, and any agent, director, officer, employee or servant of Respondent, as well as Respondent's successors and assigns. Respondent shall not raise as a defense to any enforcement action taken pursuant to this settlement the failure of their agents, directors, officers, servants or employees to take such action as shall be required to comply with the provisions of this settlement.

V.

**ADMISSION/DENIAL OF VIOLATIONS**

Respondent neither admits nor denies the allegations in the Complaint or as stated herein.

VI.

**FUTURE PLANS OF COMPLIANCE**

Respondent shall comply with all applicable regulatory standards and work procedures to control asbestos emissions during asbestos removal if any. Respondent shall also comply with the Act, the Board's regulations, and the asbestos NESHP.

VII.

**IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

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

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:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. 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;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state as follows:

1. Complainant alleges that the impact to the public as a result of the allegations against Respondent in the Complaint was that Respondent allowed asbestos fibers to be released into the environment.

2. The parties agree that Respondent's operation is of social and economic value.

3. The parties agree that the Facility is suitable to the area where it is located.

4. The parties agree that compliance with the requirements of the Act, Board regulations, and the asbestos NESHAP is both technically practicable and economically reasonable.

5. The parties agree that Respondent subsequently complied with the Act, Board regulations, and the asbestos NESHAP.

#### VIII.

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

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

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 or 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 violator 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 violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this act by the violator and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of

this Act by the violator;

6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, noncompliance 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 respondent is not otherwise legally obligated to perform.

In response to these factors the parties state as follows:

1. Complainant asserts that the gravity of the alleged violations is significant in that Respondent failed to comply with the Act, the applicable Board Regulations, and the asbestos NESHAP which resulted in air pollution. Complainant alleges that the duration is also significant, as the alleged violations began sometime on or prior to January 11, 1998 and continued throughout January of 1998.

2. Complainant alleges that Respondent did not initially exercise due diligence in complying with the Act, the Board's regulations, and the asbestos NESHAP. However, Respondent subsequently complied with the Act, Board regulations, and the asbestos NESHAP.

3. Complainant alleges that Respondent derived some economic benefits by not using the proper and approved method for asbestos removal.

4. Complainant asserts that a ninety-thousand dollar (\$90,000.00) civil penalty is adequate to deter Respondent from future violations and that said amount is at least as great as economic benefits accrued by Respondent as a result of the violation.

5. Complainant is unaware of Respondent committing any previously adjudicated violations of the Illinois Environmental Protection Act.

6. Respondent never voluntarily self-disclosed any alleged noncompliance with the Act,

the regulations promulgated thereunder, and/or the asbestos NESHAP to the Agency.

7. No supplemental environmental project will be undertaken pursuant to this order.

## IX.

### TERMS OF SETTLEMENT

1. Respondent filed for Chapter 11 bankruptcy on September 22, 2004 in the United States Bankruptcy Court for the Western District of Missouri.
2. On October 25, 2004, the Complainant filed proof of claim number 479 for penalties arising from violations on or before January 11, 1998 until at least January 23, 1998. The claim was contingent, disputed, and unliquidated.
3. The Parties acknowledge that pursuant to Section 362(b)(4) of the Bankruptcy Code ("Code"), 11 U.S.C. § 362(b)(4), the Complainant has a right to seek and obtain a money judgment against the Respondent under its police powers. However, the Parties also acknowledge that any recovery of monies due and owing on any imposed pre-petition penalty money judgment must be authorized by the bankruptcy court and paid only from the bankruptcy estate.
4. A money judgment for a civil penalty in the amount of \$90,000.00 is entered against Respondent (the "Money Judgment"). The entry of a money judgment shall not be construed as an admission of any fact or allegation but is entered for purposes of settlement only.
5. Respondent and Complainant agree that Complainant will file an amended proof of claim with the bankruptcy court reflecting that Complainant's previous disputed, contingent, and unliquidated claim, claim number 479, has now been liquidated and a money judgment on the claim in the amount of \$90,000.00 (the "Claim") has been entered against the Respondent by the Illinois Pollution Control Board. Respondent shall not object to the amended proof of claim. Respondent

shall permit the amended proof of claim to relate back to the date that the original proof of claim was filed as it arises out of the same occurrence.

6. Respondent shall include Complainant's Claim in its plan of reorganization ("Plan") and shall classify the Claim as a general, unsecured, non-priority claim. Respondent agrees that Complainant's Claim shall be classified in its Plan with other similarly situated claims and paid the same percentage as other similarly situated claims.

7. Respondent shall take all necessary action to have this settlement agreement approved by the bankruptcy court on the basis that it is in the best interest of the estate.

8. This Stipulation is expressly conditioned upon both (a) authorization of this Stipulation pursuant to the Bankruptcy Court's Order, Pursuant to 11 U.S.C. 105, 363 and 502 and Rule 9019(b) of the Federal Rules of Bankruptcy Procedure, Authorizing the Debtors to Compromise or Settle Certain Classes of De Minimis Controversy and Either Collect or Allow Claims Without Further Court Approval (Docket No. 516) (the "Settlement Order") and (b) the Board approving and disposing of this matter on each and every one of the terms and conditions of the settlement set forth herein ("Board Approval"). If either condition is not satisfied, then this Stipulation shall be null and void. Following execution of this Stipulation by the signature parties, Respondent shall initiate the Settlement Order procedures. Upon completion of the Settlement Order procedures, Respondent shall provide the Complainant with written notification of the outcome of the Settlement Order procedures. In the event the Settlement Order procedures result in the authorization of this Stipulation, Complainant will promptly submit this Stipulation to the Board for approval. Complainant shall provide written confirmation of the Board's decision to Respondent. In the event of Board Approval and authorization of this Stipulation pursuant to the Settlement Order, the Claim

shall be an allowed, general, unsecured, non-priority claim.

9. A duplicate of proof of claim number 479 also appears in the claims register of the Respondent's Chapter 11 bankruptcy proceedings, proof of claim number 540. Complainant will withdraw, and not file in the future, proof of claim number 540 and any and all other proofs of claim against Respondent and its affiliates. Respondent agrees such withdrawal(s) will be without prejudice to Complainant's claim pursuant to proof of claim number 479.

10. Any payments or distributions with respect to the Claim shall be made to the recipient and address identified on proof of claim number 479 (as such may be amended by notice to Respondent's claims agent, Kurtzman Carson Consultants, LLC, 12910 Culver Blvd., Suite I, Los Angeles, CA 90066) in accordance with an effective plan of reorganization or, if the Bankruptcy Cases are subsequently converted to Chapter 7 cases, in accordance with applicable law.

11. For the purposes of collection, inquiries can be addressed to Respondent IBC's attorney at:

Jennifer Nijman  
Winston & Strawn  
35 W. Wacker Drive  
Chicago, Illinois 60601-9703

12. Respondent shall in the future operate in compliance with the Act, Board Regulations, and the asbestos NESHAP.

**X.**

**COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation and Proposal for Settlement in no way affects Respondent's responsibility to comply with any federal, state or local laws and regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2002), and the Board Regulations, 35 Ill. Adm. Code Subtitles A through H.

**XI.**

**FUTURE USE**

Notwithstanding any other language in this Stipulation and Proposal for Settlement to the contrary and in consideration of the mutual promises and conditions contained in this Stipulation including the Release from Liability contained in Section XIV., below, Respondent hereby agrees that this Stipulation may be used against Respondent in any subsequent enforcement action or permit proceeding initiated within ten (10) years from the date of the Board order accepting this Stipulation as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2002). Further, Respondent agrees to waive any rights to contest, in any such subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

**XII.**

**CEASE AND DESIST**

Respondent shall cease and desist from future violations of the Act and Board Regulations, including but not limited to those sections of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C. of this Stipulation and Proposal for Settlement.

**XIII.**

**RELEASE FROM LIABILITY**

Upon the Bankruptcy Court's allowance of the Claim pursuant to the Settlement Order in accordance with Section IX. above, Complainant releases, waives and discharges Respondent from



any further liability or penalties for violations of the Act, Board Regulations, and asbestos NESHAP 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 Complaint filed on January 29, 2004. In the event the Bankruptcy Cases are dismissed, the release set forth above shall not bar Complainant from either seeking to recover or recovering the Money Judgment. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondent 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
- d. liability or claims based on Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation 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 other than Respondent.

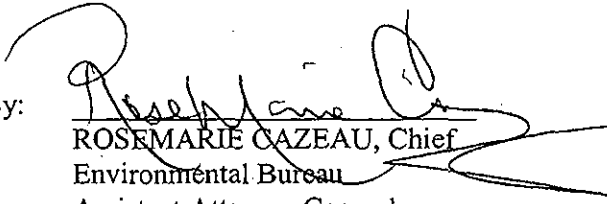
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

**AGREED:**

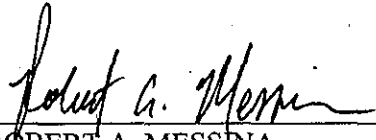
FOR COMPLAINANT:

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

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

By:  Date: 1/9/06  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:  Date: 1/4/06  
ROBERT A. MESSINA  
Chief Legal Counsel

FOR RESPONDENT:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_  
Interstate Brands Corporation

**AGREED:**

**FOR COMPLAINANT:**

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

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

By: \_\_\_\_\_  
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Date: \_\_\_\_\_

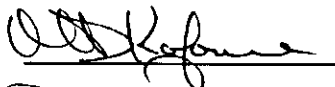
ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
ROBERT A. MESSINA  
Chief Legal Counsel

Date: \_\_\_\_\_

**FOR RESPONDENT:**

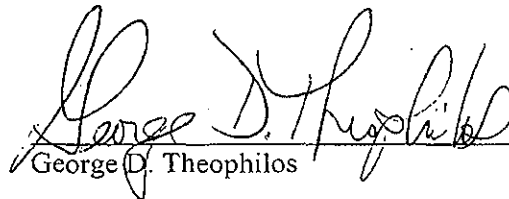
INTERSTATE BRANDS CORPORATION

By:   
Title: PRESIDENT, COO

Date: NOVEMBER 9, 2005

**CERTIFICATE OF SERVICE**

I, George D. Theophilos, an Assistant Attorney General, do certify that I caused to be mailed, this 27<sup>th</sup> day of February, 2006, the foregoing **MOTION FOR RELIEF FROM HEARING REQUIREMENT** and **STIPULATION AND PROPOSAL FOR SETTLEMENT** to the persons listed on said Service List by first class mail in a postage pre-paid envelope and depositing same with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

  
George D. Theophilos