

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.) PCB 06-
) (Enforcement-Air)
GOLDEN BAG COMPANY,)
an Illinois corporation)
)
Respondent.)

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on March 10, 2006, we filed with the Illinois Pollution Control Board, **via electronic filing**, a Complaint, a true and correct copy of which is attached and hereby served upon you.

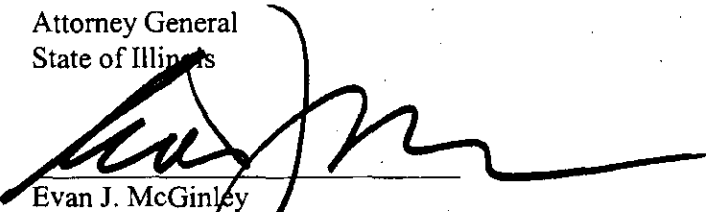
Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer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

Financing to correct the violations alleged may be available through the Illinois Environmental Facilities Financing Act 20 ILCS 3515/1, *et seq.*

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:


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SERVICE LIST

For Golden Bag Company:

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("GOLDEN BAG"), has been and is an Illinois corporation, duly authorized to do business in the State of Illinois.

4. At all times relevant to this complaint, Respondent has owned a plastic bag manufacturing facility, located at 290 Illinois Street, Dundee, Kane County, Illinois ("Facility") and, began operations at the Facility in 1999, or on a date better known to Respondent.

5. On information and belief, Respondent uses ten (10) plastic extruders and five (5) flexographic printing presses as part of its manufacturing operations.

6. Beginning in November 2003, Illinois EPA began receiving complaints about odors emanating from the facility. These odors were described as smelling like "baby powder."

7. An Illinois EPA inspector noticed "baby powder odors" on each of three visits to the Facility during November 2003.

8. On or about December 9, 2003, Illinois EPA sent a Non-Compliance Letter to GOLDEN BAG notifying them that they had failed to secure an operating permit for their plastic extruders and flexographic printing equipment.

9. On or about December 22, 2003, GOLDEN BAG responded to the Non-Compliance letter and noted that they would submit a permit application and the necessary certifications for their printing presses to Illinois EPA within thirty (30) days and also notified the agency that it was in the process of installing new air filters to rectify the odor problem at the Facility.

10. On January 27, 2004, GOLDEN BAG submitted an application for an operating permit to Illinois EPA ("January 27th Permit Application").

11. On February 2, 2004, after having reviewed the January 27th Permit Application,

Illinois EPA issued a Notice of Incompleteness ("NOI") to GOLDEN BAG because it had failed to supply the agency with Potential to Emit ("PTE") calculations as part of its permit application and had also failed to demonstrate that the Facility and the printing equipment therein were in compliance with the Illinois Pollution Control Board's ("Board") Air Pollution Control Regulations ("Board's Air Pollution Regulations") for flexographic printing operations.

12. On May 14, 2004, Illinois EPA conducted an inspection of the Facility ("May 14th Inspection"). Upon reaching the Facility, prior to commencing the inspection, Illinois EPA personnel became aware of "baby powder" odors while standing in Respondent's parking lot. These odors were noticed by Illinois EPA personnel while inside the Facility, as well.

13. During the May 14th Inspection, Illinois EPA personnel observed that Respondent was operating plastic extruders and flexographic printing presses.

14. On or about September 30, 2004, GOLDEN BAG submitted a new application for an operating permit to Illinois EPA ("September 30th Permit Application").

15. On October 4, 2004, Illinois EPA issued Violation Notice A-2004-00391 to GOLDEN BAG for causing or allowing air pollution, construction and operation of emission units without first obtaining the required construction or operating permits, failure to timely file a Clean Air Act Permitting Program ("CAAPP") application, failure to comply with the Board's New Source Review ("NSR") regulations, failure to comply with the requirements for emissions sources within the Chicago ozone non-attainment area to enroll in the Emissions Reduction Marketing System ("ERMS"), failure to comply with the Board's flexographic printing regulations, and failure to keep required records and make required reports.

16. On October 6, 2004, in response to the September 30th Permit Application, IEPA

issued an NOI to GOLDEN BAG with respect to its September 30th Permit Application because GOLDEN BAG had, once again, failed to substantiate the PTE calculations included in its permit application, as well as its failure to include information regarding the amount of VOMs produced by its extruders.

17. By letter dated November 12, 2004 ("November 12th Letter"), GOLDEN BAG's environmental consultant, Superior Environmental Corporation, stated that "GOLDEN BAG acknowledges that it has caused and allowed air emissions from its plastic extruding and flexographic printing operations."

18. GOLDEN BAG's operation of the facility is subject to the Act, as well as the rules and regulations which have been adopted by the Illinois Pollution Control Board ("Board") and the Illinois EPA, respectively. The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board's Air Pollution Regulations"), and the Illinois EPA rules and regulations for air pollution are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois's EPA Air Pollution Regulations").

19. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides as follows:

No person shall:

a. Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

20. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in relevant part, as follows:

Prohibition of Air Pollution

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter

21. Section 3.26 of the Act, 415 ILCS 5/3.26 (2004),

provides as follows:

“PERSON” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

22. GOLDEN BAG is a “person,” as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2004).

23. Section 3.115 of the Act, 415 ILCS 3.115 (2002), provides as follows:

“AIR POLLUTION” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or liberty.

24. Section 201.102 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, as follows:

“Emission Source”: any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

“New Emission Source”: any emission source, the construction or modification of which is commenced on or after April 14, 1972.

“Owner or Operator”: any person who owns, leases, controls or supervises and emission source or air pollution control equipment

25. Since at least 1999, or on a date better known to Respondent, GOLDEN BAG has engaged in the manufacture and printing of plastic bags. The plastic extruding and flexographic

printing processes involved in GOLDEN BAG's manufacturing operations constitute "emission sources," as that term is defined in 35 Ill. Adm. Code 201.102, by virtue of the specified air contaminants that are emitted during the extrusion and flexographic printing processes.

26. By virtue of GOLDEN BAG's commencement of operations after April 14, 1972, GOLDEN BAG is a "new emission source," as that term is defined in 35 Ill. Adm. Code 201.102.

27. GOLDEN BAG is the "owner or operator" of the "emission source," as that term is defined in 35 Ill. Adm. Code 201.102.

28. Section 3.06 of the Act, 415 ILCS 5/3.06 (2004), provides, as follows:

"CONTAMINANT" is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

29. Section 211.7150 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.7150, contains the following definition:

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate which participates in atmospheric photochemical reactions.

30. VOM is a "contaminant," as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (2004).

31. Within the Facility, GOLDEN BAG employs extruding and printing processes that are capable of emitting volatile organic material ("VOM"). These emissions meet the statutory definition of a "contaminant," as that term is defined in 415 ILCS 5/3.06 (2004).

32. GOLDEN BAG's production of scented bags resulted in the uncontrolled emission of VOMs, which, in turn, caused, threatened or allowed the discharge or emission of a contaminant into the environment, in violation of applicable Board regulations and therefore

violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
3. Ordering the Respondent to cease and desist from committing any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;
5. Ordering Respondent to pay all costs of this action, pursuant to Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO OBTAIN CONSTRUCTION PERMIT

1 - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I, as paragraphs 1 through 18 of this Count II.

19. Section 9(b) of the Illinois Environmental Protection Act, 415 ILCS 5/9(b)(2004), in relevant part provides that "no person shall:

"(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;"

20. Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.102, contains the following definitions:

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

"New Air Pollution Control Equipment": any air pollution control equipment, the construction or modification of which is commenced on or after April 14, 1972.

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

21. GOLDEN BAG has engaged in the "construction" of "new emission source[s]," as those terms are defined in Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

22. Section 201.142 ("Construction Permit Required") of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

"No person shall cause or allow the construction of any new emission source or any new

air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.”

23. GOLDEN BAG failed to obtain construction permits from Illinois EPA for any of the extruders or flexographic printing presses which it constructed at the Facility.

24. From at least 1999, or on dates better known to Respondent, GOLDEN BAG failed to obtain the requisite construction permit(s) for the emission source(s) which it constructed at the Facility, thereby violating Section 201.402 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.402.

25. By violating Section 201.402 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.402, GOLDEN BAG has also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;

2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2004), and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

3. Ordering Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.142 of the Board's Air Pollution

Regulations, 35 Ill. Adm. Code 201.142;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering the Respondent to pay all costs of this action, pursuant to Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO OBTAIN OPERATING PERMIT

1 - 19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count II as paragraphs 1 through 19 of this Count III.

20. Section 201.143 ("Operating Permits for New Sources") of the Board's Air Pollution Control Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

"No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit."

21. As of the date of the filing of this Complaint, GOLDEN BAG has failed to obtain an operating permit for its new emissions sources and air pollution control equipment, as

required by Section 201.143 of the Board's Air Pollution Control Regulations, 35 Ill. Adm. Code 210.143.

22. Through its continuing violations of Section 201.143 of the Board's Air Pollution Control Regulations, 35 Ill. Adm. Code 201.143, GOLDEN BAG is also continuing to violate Section 9(b) of the Act, 415 ILCS 5/9(b) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that the Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2004) and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. Ordering the Respondent to cease and desist from committing any further violations of Section 9(b) of the Act, 415 ILCS 5/9(b) (2004) and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;
5. Ordering the Respondent to pay all costs of this action, pursuant to Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees

expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

OPERATING A MAJOR SOURCE WITHOUT A CAAPP PERMIT

1 - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I, as paragraphs 1 through 18 of this Count IV.

19. Based on information submitted by GOLDEN BAG to Illinois EPA, GOLDEN BAG's plastic extruding and flexographic printing operations have the potential to emit at least 25.4 tons of VOMs per year.

20. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1), defines a CAAPP permit as:

[A]ny permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP Source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control) belonging to a single major industrial grouping. . .

"Stationary Source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant . . .

"Regulated Air Pollutant" means the following:

Nitrogen oxides (No_x) or any volatile organic

compound . . .

“Major Source” means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph 2(c) of this Section.

21. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b)(2004), provides as follows:

6. Prohibition:

* * *

b. After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

22. Section 39.5(2)(c)(iii) of the Act, 415 ILCS 5/39.5(2)(c)(iii) (2004), provides as follows:

2. Sources subject to this Section shall include:

a. Any major source as defined in paragraph c) of this subsection.

* * *

c. For purposes of this Section the term “major source” means any source that is:

* * *

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of

volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme"; except that the references in this clause to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which USEPA has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements otherwise applicable to such source under Section 182(f) of the Clean Air Act do not apply. Such sources shall remain subject to the major source criteria of paragraph 2(c)(ii) of this subsection.

- B. For ozone transport regions established pursuant to Section 184 of the Clean Air Act, sources with the potential to emit 50 tons or more per year of volatile organic compounds (VOCs).
- C. For carbon monoxide nonattainment areas (1) that are classified as "serious", and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by USEPA, sources with the potential to emit 50 tons or more per year of carbon monoxide.
- D. For particulate matter (PM-10) nonattainment areas classified as "serious", sources with the potential to emit 70 tons or more per year of PM-10.

23. Because GOLDEN BAG has the potential to emit greater than 25 tons per year of VOMs, it is a "major source," as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2004), and is therefore a "CAAPP source," as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2004).

24. GOLDEN BAG owns and operates a stationary source or source(s), and therefore is the "owner and operator" of a "CAAPP source," as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2004).

25. GOLDEN BAG has effectively operated a CAAPP source without the required CAAPP permit. In doing so, GOLDEN BAG violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that the Respondent has violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2004)
3. Ordering the Respondent to cease and desist from committing any further violations of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2004);
4. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;
5. Ordering Respondent to pay all costs of this action, pursuant to Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT V

**FAILURE TO COMPLY WITH
NEW SOURCE REVIEW REQUIREMENTS**

1 - 19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count I, as paragraphs 1 through 19 of this Count V.

20. Section 203.127 of the Board's Air Pollution Regulations 35 Ill. Adm. Code 203.127, defines the term "nonattainment area," as:

"An area designated by USEPA as nonattainment for a given pollutant pursuant to Section 107 of the Clean Air Act (42 U.S.C. 7407)."

21. Section 203.201 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.201 provides as follows:

"In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or nitrogen oxides. Revisions to this Part which were adopted to implement the Clean Air Act Amendments of 1990 shall not apply to any new major stationary source or major modification for which a permit application was submitted by June 30, 1992, for PM-10, May 15, 1992, for SO₂, or by November 15, 1992, for nitrogen oxides and volatile organic material emissions for sources located in all ozone nonattainment areas."

22. Section 205.127 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.206(b)(1)(C) provides:

"1) For an area designated as nonattainment for ozone, a major stationary

source is a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater than the following:

* * . * *

C) 25 tons per year in an area classified as severe nonattainment for ozone;"

23. At the time of the violations alleged in this Count, the Facility was located in an area that had been designated as a severe ozone nonattainment area.

24. Because the Facility has the potential to emit 25 tons per year of VOMs per year, it is considered a "major stationary source," as that term is defined in Section 203.206(b) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.206(b).

25. Because the Facility is classified as a "major source" for VOM emissions and, at the time of the violations alleged herein, was located in severe ozone non-attainment area, it was required to comply with the Board's Air Pollution regulations governing new source review.

26. GOLDEN BAG has violated and continues to violate Section 203.201 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.201. As the result of such violations, GOLDEN BAG has also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;

2. Finding that the Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2004), and Section 203.201 of the Board's Air Pollution regulations, 35 Ill. Adm. Code

203.201;

3. Ordering the Respondent to cease and desist from committing any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004) and Section 203.201 of the Board's Air Pollution regulations, 35 Ill. Adm. Code 203.201;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering the Respondent to pay all costs of this action, pursuant to Section 42(h), 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORTS

1 - 20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count III as paragraphs 1 through 20 of this Count VI.

21. Section 254.102(b) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b), provides as follows:

Subpart C of this Part applies to the owner or operator of any source of regulated air pollutants required to have an operating permit in accordance with 35 Ill. Adm. Code 201 that is not subject to subsection (a) of this Section.

22. GOLDEN BAG is required to have an operating permit by virtue of its status of as the owner or operator of a source of regulated air pollutants. Accordingly, GOLDEN BAG is subject to 254.102(b) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.102(b).

23. Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132, provides as follows:

"Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a)."

24. Section 254.137(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

25. GOLDEN BAG was required to submit AERs for the years 1999 to the present.

26. GOLDEN BAG failed to submit an AER for the years 1999 through 2004.

27. By failing to submit AERs for the calendar years 1999 through 2004, GOLDEN BAG violated Sections 254.132(a) and 254.137(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a).

28. Section 203.122 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 203.122, in relevant part, defines the term "emissions unit" as:

"any part of a stationary source which emits or has the potential to emit any air pollutant subject to regulation under the Act or this Chapter or by the United States Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.)."

29. Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides:

"The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter."

30. By violating Sections 254.132(a) and 254.137(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137(a), GOLDEN BAG also violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).

31. Furthermore, through its violations of Section 201.302(a) of the Board's Air Pollution Regulations, and Sections 254.132(a) and 254.137(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a) and 254.137(a), GOLDEN BAG also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VI:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), as well as Section 201.302(a) of the Board's Air Pollution Regulations, and Sections 254.132(a) and 254.137(a) of the Illinois's EPA's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a) and 254.137(a);

3. Ordering the Respondent to cease and desist from committing any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.302(a) of the Board's Air Pollution Regulations, and Sections 254.132(a) and 254.137(a) of the Illinois's EPA's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), 254.132(a) and 254.137(a);
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;
5. Ordering Respondent to pay all costs of this action, pursuant to Section 42(h), 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT VII

FAILURE TO DEMONSTRATE COMPLIANCE WITH STANDARDS AND REQUIREMENTS FOR FLEXOGRAPHIC PRINTING OPERATIONS

1 - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I, as paragraphs 1 through 18 of this Count VII.

19. Section 218.401(a) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a) and (c), in relevant part, provides as follows:

- "a) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line shall apply at any time any coating or ink unless the VOM content does not exceed the limitation specified in either subsection (a)(1) or (a)(2) below. Compliance with this Section

must be demonstrated through the applicable coating or ink analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.404(c) of this Part. As an alternative to compliance with this subsection, a subject printing line may meet the requirements of subsection (b) or (c) below.

- 1) Forty percent VOM by volume of the coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM), or
- 2) Twenty-five percent VOM by volume of the volatile content in the coating and ink.

* * * * *

c) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line equipped with a capture system and control device shall operate the subject printing line unless the owner or operator meets the requirements in subsection (c)(1), (c)(2), or (c)(3) and subsections (c)(4), (c)(5) and (c)(6) below.

- 1) A carbon adsorption system is used which reduces the captured VOM emissions by at least 90 percent by weight, or
- 2) An incineration system is used which reduces the captured VOM emissions by at least 90 percent by weight, or
- 3) An alternative VOM emission reduction system is used which is demonstrated to have at least a 90 percent control device efficiency, approved by the Agency and approved by USEPA as a SIP revision, and
- 4) The printing line is equipped with a capture system and control device that provides an overall reduction in VOM emissions of at least:
 - A) 75 percent where a publication rotogravure printing line is employed, or
 - B) 65 percent where a packaging rotogravure printing line is employed, or

C) 60 percent where a flexographic printing line is employed,

20. Section 211.2370 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.2370, defines "Flexographic printing," as:

"a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of rubber or other elastomeric materials."

21. Section 211.2390 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.2390, defines "Flexographic printing line," as:

"a printing line performing flexographic printing."

22. GOLDEN BAG is the owner or operator of a "flexographic printing line," as that term is defined in Section 211.2390 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.2390.

23. Golden Bag is subject to the requirements of Section 218.401(a) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a) and (c).

24. GOLDEN BAG has failed, and continues to fail, to demonstrate that it has complied with the Board's Air Pollution Regulations under Section 218.401(a) and (c), 35 Ill. Adm. Code 218.401(a) and (c) governing either inks and coatings or the capture and control of VOMs generated during flexographic printing operations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2004), and Section 218.401(a) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a) and (c);

3. Ordering the Respondent to cease and desist from committing any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2004), and Section 218.401(a) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.401(a) and (c);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering the Respondent, pursuant to Section 42(h), 415 ILCS 5/42(h)(2004), to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VIII

FAILURE TO COMPLY WITH THE BOARD'S REQUIREMENTS TO CERTIFY COMPLIANCE AND TO COLLECT RECORDS

1- 19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count I, as paragraphs 1 through 19 of this Count VIII.

20. Section 201.404 (c) and (e) of the Board's Air Pollution Regulations, 35

Ill. Adm. Code 201.404 (c) and (e), provides as follows:

- c) Any owner or operator of a printing line subject to the limitations of Section 218.401 of this Part and complying by means of Section 218.401(a) of this Part shall comply with the following:
 - 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new printing line, or upon changing the method of compliance from an existing subject printing line from Section 218.401(b) or Section 218.401(c) of this Part to Section 218.401(a) of this Part, the owner or operator of a subject printing line shall certify to the Agency that the printing line will be in compliance with Section 218.401(a) of this Part on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date. Such certification shall include:
 - A) The name and identification number of each coating and ink as applied on each printing line.
 - B) The VOM content of each coating and ink as applied each day on each printing line.
 - 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of Section 218.401 of this Part and complying by means of Section 218.401(a) of this Part shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:
 - A) The name and identification number of each coating and ink as applied on each printing line.
 - B) The VOM content of each coating and ink as applied each day on each printing line.
 - 3) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject printing line shall notify the Agency in the following instances:

- A) Any record showing violation of Section 218.401(a) of this Part shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
- B) At least 30 calendar days before changing the method of compliance with Section 218.401 of this Part from Section 218.401(a) of this Part to Section 218.401(b) or (c) of this Part, the owner or operator shall comply with all requirements of subsection (d)(1) or (e)(1) of this Section, respectively. Upon changing the method of compliance with Section 218.401 of this Part from Section 218.401(a) of this Part to Section 218.401(b) or (c) of this Part, the owner or operator shall comply with all requirements of subsection (d) or (e) of this Section, respectively.

* * * *

- e) Any owner or operator of a printing line subject to the limitations of Section 218.401 of this Part and complying by means of Section 218.401(c) of this Part shall comply with the following:
 - 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing printing line from Section 218.401(a) or (b) of this Part to Section 218.401(c) of this Part, the owner or operator of the subject printing line shall perform all tests and submit to the Agency the results of all tests and calculations necessary to demonstrate that the subject printing line will be in compliance with Section 218.401(c) of this Part on and after a date consistent with Section 218.106 or on and after the initial start-up date.
 - 2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of Section 218.401 of this Part and complying by means of Section 218.401(c) of this Part shall collect and record all of the following information each day for each printing line and maintain the information at the facility for a period of three years:
 - A) Control device monitoring data.

- B) A log of operating time for the capture system, control device, monitoring equipment and the associated printing line.
 - C) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.
- 3) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject printing line shall notify the Agency in the following instances:
- A) Any record showing violation of Section 218.401(c) of this Part, shall be reported by sending a copy of such record to the Agency within 30 days following the occurrence of the violation.
 - B) At least 30 calendar days before changing the method of compliance with Section 218.401 of this Part from Section 218.401(c) of this Part to Section 218.401(a) or (b) of this Part, the owner or operator shall comply with all requirements of subsection (c)(1) or (d)(1) of this Section, respectively. Upon changing the method of compliance with Section 218.401 of this Part from Section 218.401(c) of this Part to Section 218.401(a) or (b) of this Part, the owner or operator shall comply with all requirements of subsection (c) or (d) of this Section, respectively.

21. GOLDEN BAG failed to comply with the recordkeeping and reporting requirements specified under Section 201.404 (c) and (e) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.404 (c) and (e).

22. By failing to comply with the aforementioned requirements under Section 218.404(c) and (e) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(c) and (e), GOLDEN BAG is and continues to be in violation of each of the aforementioned requirements set forth under 35 Ill. Adm. Code 218.404(c) and (e).

23. By violating Section 218.404(c) and (e) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.404(c) and (e), GOLDEN BAG has also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count VIII:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations alleged herein;

2. Finding that the Respondent has violated Section 218.404(c) and (e) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(c) and (e), as well as Section 9(a) of the Act, 415 ILCS 5/9(a) (2004);

3. Ordering the Respondent to cease and desist from committing any further violations of Section 218.404(c) and (e) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(c) and (e), as well as Section 9(a) of the Act, 415 ILCS 5/9(a) (2004);

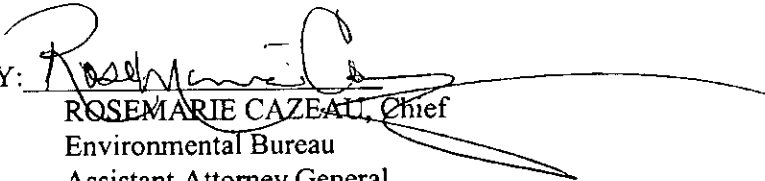
4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations promulgated thereunder, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues;

5. Ordering the Respondent to pay all costs of this action, pursuant to Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as this Board deems appropriate and just.

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

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

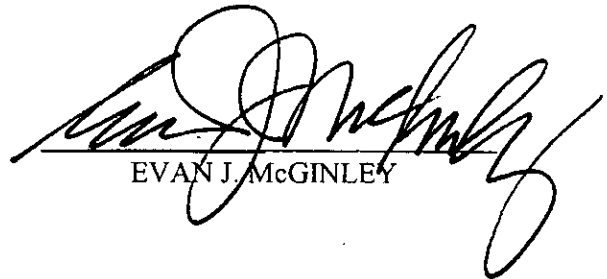
BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

EVAN J. MCGINLEY
Assistant Attorney General
Environmental Bureau
188 W. Randolph Street, 20th Floor
Chicago, IL 60601
(312) 814-5131

CERTIFICATE OF SERVICE

I, EVAN J. MCGINLEY, an Assistant Attorney General, certify that on the 10th day of March, 2006 I caused to be served by United States Postal Service First Class Mail, the foregoing Complaint to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 188 West Randolph Street, Chicago, Illinois 60601.


EVAN J. MCGINLEY

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