

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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APR 12 2006
STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
Complainant,)
) PCB 04-16
) (Enforcement – Air)
v.)
)
PACKAGING PERSONIFIED, INC., an)
Illinois Corporation)
Respondent.)

NOTICE OF FILING

To: See Attached Certificate of Service

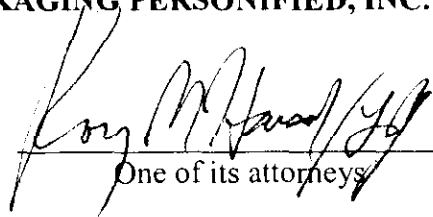
PLEASE TAKE NOTICE that on April 12, 2006, we filed with the Clerk of the Illinois Pollution Control Board the attached **Motion For Leave To File Instanter and Reply In Support of Respondent's Motion to Compel on behalf of Packaging Personified, Inc.**, copies of which are attached hereto and hereby served upon you.

Respectfully submitted,

Dated: April 12, 2006

PACKAGING PERSONIFIED, INC.

By:


One of its attorneys

GARDNER CARTON & DOUGLAS LLP
Roy M. Harsch
191 N. Wacker Drive Suite 3700
Chicago, IL 60606-1698
Telephone: (312) 569-1000
Facsimile: (312) 569-3000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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MOTION FOR LEAVE TO FILE INSTANTER

Now comes Respondent, Packaging Personified, Inc. by Roy M. Harsch, Gardner Carton & Douglas LLP, and moves the Hearing Officer for Leave to File Instanter, the attached Response to Respondent's Motion to Compel. In support of this Motion for Leave to File Instanter, Respondent states as follows:

1. At the last status conference, the Hearing Officer informed counsel that he would not be ruling on the Motion to Compel for some period of time.
2. Because of the extreme press of other business, counsel for Respondent has been unable to file the attached reply to respond to this Motion to Compel until this time.
3. Complainant will not be prejudiced by allowing filing of this Reply.

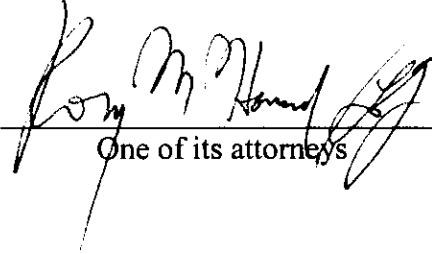
WHEREFORE, Respondent respectfully requests the Hearing Officer to allow the filing of the attached Reply to Response to Respondent's Motion to Compel.

Respectfully submitted,

Dated: April 12, 2006

PACKAGING PERSONIFIED, INC.

By:



One of its attorneys

GARDNER CARTON & DOUGLAS LLP
Roy M. Harsch
191 N. Wacker Drive Suite 3700
Chicago, IL 60606-1698
Telephone: (312) 569-1000
Facsimile: (312) 569-3000

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
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)	
PACKAGING PERSONIFIED, INC., an)	
Illinois Corporation)	
Respondent.)	

REPLY IN SUPPORT OF RESPONDENT'S MOTION TO COMPEL

Now comes Respondent, Packaging Personified, Inc., by Roy M. Harsch and Gardner Carton & Douglas LLP, and states in reply to Complainant's Response to Respondent's Motion to Compel written discovery the following:

1. Complainant would have the Hearing Officer believe that the requested discovery is not relevant to the case at hand. This is simply not true. The case at hand is an enforcement action brought against a small flexographic printing operation for violations of flexographic printing rack regulations adopted in R93-9. Plaintiff seeks a substantial penalty from Respondent for the alleged failure of Respondent to timely comply with these regulations.

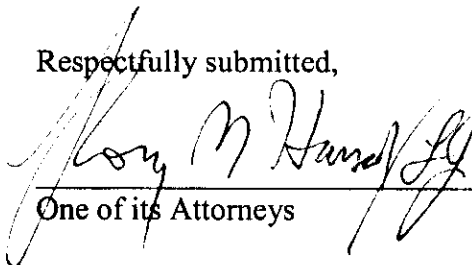
2. Respondent respectfully believes that as part of its defense, it should be allowed to show what entities received notice of the adoption of these Flexographic rack regulations, including similarly situated Flexographic printers that had not complied with the Flexographic regulations adopted in R93-9. While these similarly situated printers had not complied with the regulations, they were nevertheless were allowed to pursue variances and adjusted standard relief with the apparent approval by the Illinois Environmental Protection Agency, and without any

enforcement actions being brought by Respondent. Thus, the questions of notice, who was involved in rack regulations, subsequent IEPA discussions with similar situated Flexographic printers, and the decisions to authorize relief without accompanying enforcement actions is directly relevant to Respondent's defense to the enforcement action brought in this case.

3. Respondent would have the Hearing Officer believe that the requested information is overly burdensome because it would require respondent to evaluate the rulemaking records as well as other proceedings.

4. The fact that it is estimated that it will take 37 hours to search for this information is irrelevant and unpersuasive: Complainant is seeking thousands and thousands of dollars in penalty. Even if this estimate is correct, any burden placed on Complainant by having to spend 37 hours is a direct result of the baseless allegations raised in the complaint and the relief sought, and therefore is completely reasonable.

Respectfully submitted,



One of its Attorneys

GARDNER CARTON & DOUGLAS LLP
Roy M. Harsch
191 N. Wacker Drive Suite 3700
Chicago, IL 60606-1698
Telephone: (312) 569-1000
Facsimile: (312) 569-3000

CH01/12469716.1

CERTIFICATE OF SERVICE

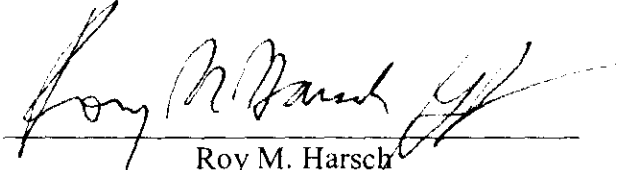
The undersigned certifies that copies of the foregoing **Motion For Leave To File Instant and Reply In Support of Respondent's Motion to Compel** were served upon:

Christopher Grant
Assistant Attorney General
Office of the Illinois Attorney General
Environmental Bureau
188 W. Randolph St.
20th Floor
Chicago, IL 60601

Dorothy Gunn
Clerk of the Board
Illinois Pollution Control Board
100 W. Randolph St.
Suite 11-500
Chicago, IL 60601

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

by First Class U.S. Mail on this 12th day of April, 2006.


Roy M. Harsch