

ILLINOIS POLLUTION CONTROL BOARD
June 28, 2006

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

HEARING OFFICER ORDER

On January 31, 2006, the respondent filed a motion to compel responses to written discovery. On February 16, 2006, complainant filed its response. On April 12, 2006, the respondent filed a motion for leave to file *instanter* and reply in support of respondent’s motion to compel. Complainant has not filed a response to respondent’s motion for leave to file or to the reply itself. Respondent’s motion is granted. The parties represented at various telephonic status conferences with the hearing officer that they have been attempting to resolve the discovery issue but they are at an impasse.

Motion To Compel

In respondent’s motion to compel, respondent alleges that the complainant refused to provide the discovery requested in Interrogatories 6 through 12 and Document Requests 13 through 18. Respondent’s motion to compel was not accompanied by a copy of the interrogatories as required by Section 101.622 of the Board’s procedural rules. Respondent instead provides a summary of the requested information, which is insufficient. Complainant, however, attached a copy of the interrogatories in question to its response.

Interrogatory 6. Identify all entities who were listed on any IPCB notice lists and service lists for R93-9.

Interrogatory 7. Identify all entities who, prior to or during the pendency of R93-9 or after adoption of the Flexographic Printing Rules, received correspondence from or engaged in communications with the IEPA related to R93-9 or the Flexographic Printing Rules.

Interrogatory 8. For each entity identified in response to either Interrogatory 6 or 7, provide the following information:

- a. Identify any communication between the entity and IEPA relating to R93-9 or the Flexographic Printing Rules.

- b. Describe the type of business, including the types of product printed, the inks used, whether the inks used are water-based or solvent-based, and the processes used by the entity.
- c. Identify the control equipment used by the entity to comply with the Flexographic Printing Rules, the cost associated with the control equipment, and the date the control equipment was employed.

Interrogatory 9. Identify each and every communication related to clean air regulation with respect to permitting, Flexographic Printing Rules, or emissions reduction systems, between IEPA and the following companies:

- a. Formel Industries, Inc.
- b. Vonco Products, Inc.
- c. Bema Film Systems, Inc.

Interrogatory 10. Identify each and every flexographic or rotogravure printer business in the Chicago area, as that is described at 35 IAC 218.100(a).

Interrogatory 11. Identify each and every communication between USEPA and the State of Illinois or any Illinois state agency relating to the Flexographic Printing Rules, including but not limited to promulgation, SIP approval, and enforcement of the Flexographic Printing Rules and variances and adjusted standards from the Flexographic Printing Rules.

Interrogatory 12. Identify each and every communication between and among IEPA, USEPA, and the companies listed in Interrogatory 9 relating to USEPA approval as SIP revisions of the adjusted standards from the Flexographic Printing Rules granted to those companies, captioned before the IPCB as AS 00-11, AS 00-12, and AS 00-13.

Document Request 13. All documents relating to R93-9, including but not limited to comments received during the notice-and-comment period.

Document Request 14. All documents relating to R93-9 provided by IEPA to Packaging Personified either before the Rulemaking, during the pendency of R93-9, or after adoption of Flexographic Printing Rules.

Document Request 15. All documents relating to any notice provided by the IPCB to Packaging Personified related to R93-9.

Document Request 16. All documents relating to the following Adjusted Standard Petitions before the IPCB:

- a. In the Matter of Petition of Formel Industries, Inc. for an Adjusted Standard, AS 00-13
- b. In the Matter of Petition of Vonco Products, Inc. for an Adjusted Standard, AS 00-12
- c. In the Matter of Petition of Bema Film Systems, Inc. for an Adjusted Standard, AS 00-11

Document Request 16 [sic]. All documents relating to the following Petitions for Variance from the Flexographic Printing Rules before the IPCB:

- a. Formel Industries, Inc., PCB 99-165
- b. Vonco Products, Inc., PCB 99-167
- c. Bema Film Systems, Inc., PCB 99-170

Document Request 17. All documents relating to the Flexographic Printing Rules, including but not limited to promulgation of the Flexographic Printing Rules, variances and adjusted standards from the Flexographic Printing Rules, and enforcement of the Flexographic

Printing Rules by the USEPA, the State of Illinois, or any other entity with administrative or judicial enforcement authority with respect to the Flexographic Printing rules.

Document Request 18. All documents relating to USEPA approval as SIP revisions of the adjusted standards cited in Document Request 16.

Complainant's Response

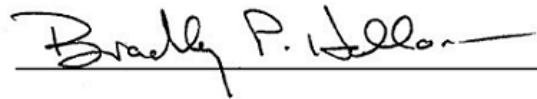
In summary, the complainant objects to each of these interrogatories and document requests as irrelevant, immaterial and/or overly burdensome.

Discussion

Section 101.616 of the Board's procedural rules state that all relevant information and information calculated to lead to relevant information is discoverable.

The rulemaking process itself is immaterial and irrelevant to the violations alleged in the complaint at bar. Moreover, the requested information would be overly burdensome to the complainant, much of which is in the Board's public file. Respondent's motion to compel is denied.

IT IS SO ORDERED.



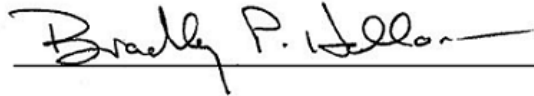
Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 W. Randolph Street
Chicago, Illinois 60601
312.814.8917

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on June 29, 2006, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on June 29, 2006:

Dorothy M. Gunn
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
312.814.8917

PCB 2004-016
Christopher J. Grant
Office of the Attorney General
188 West Randolph, 20th Floor
Chicago, IL 60601

PCB 2004-016
Roy M. Harsch
Gardner Carton & Douglas
191 N. Wacker Drive
Suite 3700
Chicago, IL 60606-1698

PCB 2004-016
Steven J. Murawski
Gardner Carton & Douglas
191 N. Wacker Drive
Suite 3700
Chicago, IL 60606-1698

PCB 2004-016
Sasha M. Engle
Gardner Carton & Douglas
191 N. Wacker Drive
Suite 3700
Chicago, IL 60606-1698

PCB 2004-016
Phyllis Muccianti
Packaging Personified, Inc.
246 Kehoe Boulevard
Carol Stream, IL 60188-1816