

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	
)	(Enforcement)
AVANTE, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Forrest D. Laidley
339 N. Milwaukee Ave., Ste 203
Libertyville, IL 60048

James F. Quigley
c/o Avante Graphic Communications LLC
6125 West Howard Street
Niles, Illinois 60714

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a 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.

THIS FILING IS SUBMITTED ON RECYCLED PAPER

NOTIFICATION

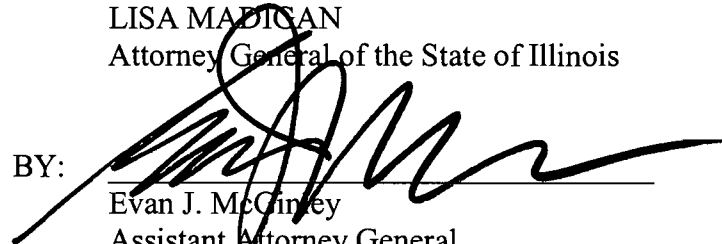
YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1 *et seq.*] to correct the alleged violation.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the State of Illinois

BY:



Evan J. McGinley
Assistant Attorney General
Environmental Bureau
69 West Washington Street, 18th Floor
Chicago, Illinois 60602
312.814.3153

DATE: April 6, 2010

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois complains of Respondent, AVANTE, LLC, as follows:

COUNT I

FAILURE TO OBTAIN CONSTRUCTION PERMIT

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”) pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2008).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this complaint, Respondent, AVANTE, LLC (“AVANTE”), was an Illinois limited liability company, which was involuntarily dissolved by the Illinois Secretary of State on or about May 28, 2009.

4. On information and belief, beginning in or about 1992, on a date better known to Respondent, Respondent commenced operation of a lithographic printing business at 865 North Ellsworth Ave, Villa Park, DuPage County, Illinois (“Villa Park Facility”).

5. On information and belief, in or about November 2006, on a date better known to Respondent, Respondent moved its lithographic printing operations to a new facility, located at 1228 West Capital Drive, Addison, DuPage County, Illinois (“Addison Facility”). Respondent continued to operate at the Addison Facility up through April 10, 2009, at which time it ceased operations.

6. On information and belief, AVANTE used various inks and related products in its lithographic printing business at both its former Villa Park and Addison Facilities.

7. On June 6, 2007, an inspector from the Illinois EPA Bureau of Air conducted an inspection of the Addison Facility (“June 6th Inspection”).

8. In the course of his review of Respondent’s operations during the June 6th Inspection, the Illinois EPA’s inspector noted that three (3) sheet-fed coldset offset

printing presses ("Presses") were in operation at the Addison Facility. The Presses emit volatile organic materials ("VOM").

9. During the June 6th Inspection, the inspector was informed that Respondent had operated the Presses at its former Villa Park Facility for a period of approximately fifteen (15) years, prior to relocating to its Addison Facility.

10. At the time of the June 6th Inspection, Respondent had not obtained an Illinois EPA-issued operating permit for the Addison Facility. Respondent also did not obtain an Illinois EPA-issued operating permit for its Villa Park Facility.

11. Upon information and belief, the Presses were installed at the Addison Facility when it began operations in or around November 2006, on a date better known to Respondent.

12. Respondent did not obtain construction permits from the Illinois EPA prior to installing the Presses at either its Villa Park or Addison Facilities.

13. On August 11, 2008, AVANTE submitted a joint construction and operating permit application to the Illinois EPA for the Addison Facility. While processing the application, the Illinois EPA determined that AVANTE owed the Illinois EPA avoided construction permit fees. To date, AVANTE has not paid the requisite construction permit fees.

14. On September 5, 2007, the Illinois EPA issued Violation Notice (VN) A-2007-00135 to AVANTE for construction and operation of emission units without having the requisite permits, failure to demonstrate compliance with or eligibility for exemption from the Board's printing regulations, failure to maintain required records, failure to

submit Annual Emissions Reports to the Illinois EPA, failure to submit a fugitive dust plan to the Illinois EPA, and failure to pay air pollution construction permit fees.

16. AVANTE failed to respond to the VN with a Compliance Commitment Agreement (“CCA”).

15. On October 16, 2007, the Illinois EPA denied AVANTE’S construction permit application and instead issued it Lifetime Operating Permit No. 08010011.

16. On November 15, 2007, AVANTE indicated Illinois EPA that it had submitted an operating permit application to the Illinois EPA. Illinois EPA did not receive an operating permit application from AVANTE.

17. On December 21, 2007, the Illinois EPA sent a letter to AVANTE notifying AVANTE that the Agency had previously sent a VN to AVANTE which AVANTE had not responded to and requested AVANTE meet with Illinois to discuss the outstanding VN.

18. On January 7, 2008, AVANTE submitted an operating permit application to Illinois EPA. On January 18, 2008, Illinois EPA notified AVANTE that its application was incomplete because it failed to address the facility’s compliance with applicable regulations and failed to address the facility’s potential to emit volatile organic material and hazardous air pollutants.

19. On January 30, 2008, Illinois EPA issued a Notice of Intent to Pursue Legal Action (“NITPLA”)to AVANTE.

20. On February 19, 2008, Illinois EPA held a teleconference with AVANTE, pursuant to the Illinois EPA’s prior NITPLA.

21. AVANTE's operation of the Facility is subject to the Act, as well as the regulations promulgated by the Illinois Pollution Control Board ("Board") and the Illinois EPA. The Board regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board Air Pollution Regulations"), and the Illinois EPA's air regulations are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois EPA Air Regulations").

22. Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), provides as follows:

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;

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008),

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.

24. AVANTE is a "person," as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2008).

25. Section 3.115 of the Act, 415 ILCS 3.115 (2008), 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.

26. Section 201.142 of the Board 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.

27. Section 201.102 of the Board 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 and operator”: any person who owns, leases, controls or supervises and emission source or air pollution control equipment.

28. The Presses are “Emission source(s)” or “New emission source(s)”, as those terms are defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

29. On information and believe, since at least 1992, when AVANTE began the operations of its lithographic printing business at its Villa Park Facility, or on a date better known to Respondent, AVANTE, has been the “Owner and operator” of “Emission source(s)”, as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

30. Section 3.06 of the Act, 415 ILCS 5/3.06 (2008), provides, as follows:

“Contaminant” is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

31. Section 211.7150 of the Board 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.

32. VOM, as that term is defined in Section 211.7150 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code 211.7150, is a “contaminant,” as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (2008).

33. The Presses, which are Emission Sources, emit VOM during the printing process.

34. AVANTE constructed three Presses, “New emission source[s],” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, at its former Villa Park Facility, on a date or dates better known to Respondent, without first obtaining a construct permit.

35. AVANTE moved and reconstructed the Presses at the Addison Facility in 2006, on a date better known to Respondent, and thus constructed “New emission source[s],” as that term is defined in Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, without first obtaining a construct permit.

36. By constructing its Presses, emissions sources, without first obtaining the requisite permits from the Illinois EPA, AVANTE violated Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

37. By violating Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, AVANTE also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC, with respect to Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent 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;
4. Taxing all costs of this action to the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO OBTAIN OPERATING PERMIT

1 - 32. Complainant realleges and incorporates by reference herein paragraphs 1 through 25 and 27 through 32 of Count I as paragraphs 1 through 32 of this Count II.

33. Section 201.143 of the Board Air Pollution 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.

34. On information and belief, during the period of time beginning in approximately 1992, on a date better known to Respondent, and continuing through October 10, 2008, AVANTE failed to obtain operating permits for the Presses, as required by Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, at either the Villa Park or the Addison Facilities.

35. By operating the Presses, which were emissions sources, at the Villa Park and the Addison Facilities, without first obtaining an Illinois EPA-issued operating permit, AVANTE violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

36. By violating Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, AVANTE also violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count II:

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

2. Finding that Respondent has violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

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

4. Taxing all costs of this action to Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT III

FAILURE TO DEMONSTRATE COMPLIANCE OR EXEMPTION TO THE POLLUTION CONTROL BOARD'S REQUIREMENTS FOR LITHOGRAPHIC PRINTING

1 - 31. Complainant realleges and incorporates by reference herein paragraphs 1 through 21, 23 through 25, and 27 through 29 of Count I, as paragraphs 1 through 31 of this Count III.

32. Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), 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;

33. Section 218.405(d)(2) of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 218.405(d)(2), provides as follows:

- d) On and after March 15, 1996, Sections 218.407 through 218.411 of this Subpart shall apply to:
 - 2) All owners or operators of heatset web offset, non-heatset web offset, or sheet-fed offset lithographic printing line(s), unless the combined emissions of VOM from all lithographic printing line(s) at the source (including solvents used for cleanup operations associated with the lithographic printing line(s)) never exceed 45.5 kg/day (100 lbs/day), as determined in accordance with Section 218.411(a)(1)(B), before the application of capture systems and control devices.

34. On information and belief, Respondent AVANTE does not emit greater than 45.5 kg/day (100 lb/day) of VOM from all lithographic printing lines at the Facility. As such, Respondent is not subject to the requirements set forth under Section 218.407 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.407.

35. Section 218.411(a)(1) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(1), which became effective May 9, 1995, provides in relevant part:

An owner or operator of lithographic printing line(s) exempt from the limitations of Section 218.407 of this Subpart because of the criteria in Section 218.405(d) of this Subpart shall comply with the following:

- (1) By March 15, 1996, upon initial start-up of a new lithographic printing line, and upon modification of a lithographic printing line, submit a certification to the Agency that includes:

(A) A declaration that the source is exempt from the control requirements of Section 218.407 of the Part because of the criteria in Section 218.405(d);

(B) Calculations which demonstrate that combined emissions of VOM from all lithographic printing lines (including inks, fountain solutions, and solvents use for cleanup operations associated with lithographic printing lines) at the source never exceed 45.5 kg/day (100 lbs/day) before the use of capture systems and control devices, as follows:

(i) To calculate daily emissions of VOM, the owner or operator shall determine the monthly emissions of VOM from all lithographic printing lines at the source (including solvents used for cleanup operations associated with the lithographic printing lines) and divide this amount by the number of days during that calendar month that lithographic printing lines at the source were in operation;

(ii) To determine the VOM content of the inks, fountain solution additives and cleaning solvents, the tests methods and procedures set forth in Section 218.409(c) of this Subpart shall be used;

(iii) To determine VOM emissions from inks used on lithographic printing line(s) at the source, an ink emission adjustment factor of 0.05 shall be used in calculating emissions from all non-heatset inks except when using an impervious substrate, and a factor of 0.80 shall be used in calculating emissions from all heatset inks to account for VOM retention in the substrate except when using an impervious substrate. For impervious substrates such as metal or plastic, no emission adjustment factor is used. The VOM content of the ink, as used, shall be multiplied by this factor to determine the amount of VOM emissions from the use of ink on the printing line(s); and

(iv) To determine VOM emissions from fountain solutions and cleaning solvents used on lithographic printing line(s) at the source, no retention factor is used;

(D) A description and the results of all tests used to determine the VOM content of inks, fountain solution additives, and cleaning solvents, and a declaration that all such tests have been properly conducted in accordance with Section 218.409(c)(1) of this Subpart;

36. Because Respondent is exempt from the limitations under Section 218.407 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.407, it is therefore required to comply with the requirements of Section 218.411(a)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(1).

37. For the period beginning on May 9, 1995 (the date that Section 218.411 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411, became effective), or on a date better known to the Respondent, and continuing up through and including August 11, 2008, the date on which AVANTE filed its certification, AVANTE failed to submit the requisite certification to the Illinois EPA.

38. By failing to submit the required certification to the Illinois EPA, AVANTE violated Section 218.411(a)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(1).

39. By violating Section 218.411(a)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(1), AVANTE has also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 218.411(a)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411;
3. 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;
4. Taxing all costs of this action to Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO COMPLY WITH REPORTING AND RECORDKEEPING REQUIREMENTS

1 - 36. Complainant realleges and incorporates by reference herein paragraphs 1 through 36 of Count III as paragraphs 1 through 36 of this Count IV.

37. Section 218.411(a)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(2), provides:

An owner or operator of lithographic printing line(s) exempt from the limitations of Section 218.407 of this Subpart because of the criteria in Section 218.405(d) of this Subpart shall comply with the following:

2) On and after March 15, 1996, collect and record either the information specified in subsection (a)(2)(A) or (a)(2)(B) of this Section for all lithographic printing lines at the source:

(A) Standard recordkeeping, including the following:

(i) The name and identification of each fountain solution additive, lithographic ink, and cleaning solvent used on any lithographic printing line, recorded each month;

(ii) A daily record which shows whether a lithographic printing line at the source was in operation on that day;

(iii) The VOM content and the volume of each fountain solution additive, lithographic ink, and cleaning solvent used on any lithographic printing line, recorded each month;

(iv) The total VOM emissions at the source each month, determined as the sum of the product of usage and VOM content for each fountain solution additive, cleaning solvent, and lithographic ink (with the applicable ink VOM emission adjustment) used at the source, calculated each month; and

(v) The VOM emissions in lbs/day for the month, calculated in accordance with Section 218.411(a)(1)(B) of this Subpart;

(B) Purchase and inventory recordkeeping, including the following:

(i) The name, identification, and VOM content of each fountain solution additive, lithographic ink, and cleaning solvent used on any lithographic printing line, recorded each month;

(ii) Inventory records from the beginning and end of each month indicating the total volume of each fountain solution additive, lithographic ink, and

cleaning solvent to be used on any lithographic printing line at the source;

(iii) Monthly purchase records for each fountain solution additive, lithographic ink, and cleaning solvent used on any lithographic printing line at the source;

(iv) A daily record which shows whether a lithographic printing line at the source was in operation on that day;

(v) The total VOM emissions at the source each month, determined as the sum of the product of usage and VOM content for each fountain solution additive, cleaning solvent, and lithographic ink (with the applicable ink VOM emission adjustment) used at the source, calculated each month based on the monthly inventory and purchase records required to be maintained pursuant to subsections (a)(2)(B)(i), (a)(2)(B)(ii) and (a)(2)(B)(iii) of this Section; and

(vi) The VOM emissions in lbs/day for the month, calculated in accordance with Section 218.411(a)(1)(B) of this Subpart;

38. For the period beginning on May 9, 1995, (the date that Section 218.411(a)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(2), became effective), or on a date better known to the Respondent, and continuing until a date best known to the Respondent, AVANTE failed to keep the records required by 35 Ill. Adm. Code 218.411(a)(2).

39. By failing to keep the required records, AVANTE violated Section 218.411(a)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(2).

40. By violating Section 218.411(a)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(2), AVANTE has also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count IV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations contained herein;
2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 218.411(a)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.411(a)(2);
3. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent 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;
4. Taxing all costs of this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT V

FAILURE TO SUBMIT TIMELY AND COMPLETE ANNUAL EMISSIONS REPORTS

1 - 32. Complainant realleges and incorporates by reference herein paragraphs 1 through 32 of Count III as paragraphs 1 through 32 of this Count V.

33. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), which became effective on September 21, 1994, provides as follows:

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.

34. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill.

Adm. Code 254.132(a), 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).

35. Section 254.137(a) of the Illinois EPA 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.

36. Beginning in 1992, the year in which the AER requirement became effective, AVANTE, as the owner or operator of emissions units, was required to submit complete Annual Emissions Reports ("AERs") to the Illinois EPA.

37. AVANTE failed to submit any AERs to Illinois EPA for the years 1992 through 2005.

38. By failing to submit any AERs for the years 1992 through 2005, AVANTE violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), as well as Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a).

39. AVANTE submitted its AER for its operations for the calendar year 2006 on August 11, 2008, and thereby failed to submit a timely AER for 2006 by the May 1, 2007 filing deadline.

40. By failing to timely submit an AER for 2006, as required by Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a), AVANTE also violated Sections 254.132(a) of the Illinois EPA Air Regulations, 35 Ill. Adm. Code 254.132(a).

41. As of the date of the filing of this complaint, AVANTE has failed to submit its AER for 2008, which was due on or before May 1, 2009.

42. By failing to submit an AER for 2008, AVANTE violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Regulations, 35 Ill. Adm. Code 254.132(a).

43. By violating Sections 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Regulations, 35 Ill. Adm. Code 254.132(a), AVANTE violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count V:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.132(a) of the Illinois EPA Air Regulations, 35 Ill. Adm. Code 254.132(a);

3. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent 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;
4. Taxing all costs of this action to Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO IMPLEMENT PLAN TO CONTROL FUGITIVE EMISSIONS

1 - 32. Complainant realleges and incorporates by reference herein paragraphs 1 through 33 of Count V, as Paragraphs 1 through 32 of this Count VI.

33. Section 212.309(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), provides as follows:

The emission units described in Sections 212.304 through 212.308 and Section 212.316 of this Subpart shall be operated under the provisions of an operating program, consistent with the requirements set forth in Sections 212.310 and 212.312 of this Subpart, and prepared by the owner or operator and submitted to the Agency for its review. Such operating program shall be designed to significantly reduce fugitive particulate matter emissions.

34. Since at least May 11, 1993, the date on which Section 212.309(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), became effective, AVANTE was required to submit a fugitive dust plan to the Illinois EPA.

35. AVANTE did not submit the required fugitive dust plan to the Illinois EPA until August 11, 2008.

36. From at least May 11, 1993, AVANTE operated emissions sources without submitting an operating program to control fugitive particulate matter emissions at its Villa Park and Addison Facilities, in violation of Section 212.309(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a).

37. By violating Section 212.309(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 212.309(a), AVANTE also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count VI:

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

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 212.309 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 312.309;

3. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent 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;

4. Taxing all costs of this action to Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42 (f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT VII

FAILURE TO PAY AIR POLLUTION CONSTRUCTION FEES

1 - 20. Complainant realleges and incorporates by reference herein paragraphs 1 through 13, 23 through 27, and 34 and 35 of Count I, as Paragraphs 1 through 20 of this Count VII.

21. Section 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2008), provides, as follows:

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

* * * * *

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

22. On information and belief, in or about November 2006, on a date better known to Respondent, AVANTE constructed the Presses at its Addison Facility, which

had previously been operated at its Villa Park Facility, without first obtaining a construction permit and tendering the requisite air pollution construction permit fee.

23. By failing to pay all construction permit fees, AVANTE has violated and continues to violate Sections 9.12 (a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Board enter an order against Respondent, AVANTE LLC with respect to Count VII:

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

2. Enjoining Respondent from any further violations of Sections 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2008);

3. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent 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;

4. Taxing all costs of this action to Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42 (f) (2008), including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

5. Granting such other relief as the 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
69 West Washington Street
Suite 1800
Chicago, IL 60602
(312) 814-5131

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

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

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

BY:

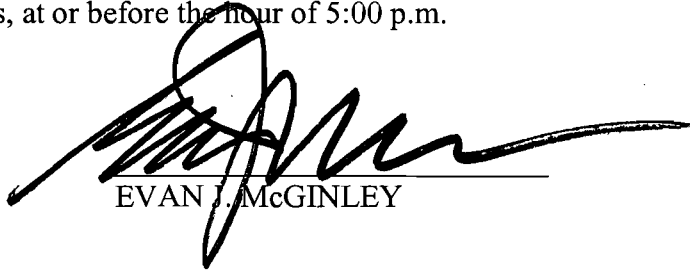

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

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69 West Washington Street
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(312) 814-5131

CERTIFICATE OF SERVICE

I, EVAN J. McGINLEY, an Assistant Attorney General, do certify that I caused to be served this 6th day of April, 2010, the foregoing Notice of Filing and Complaint upon the person listed on said Notice of Filing by placing true and correct copies of each in an envelope, certified mail postage prepaid, and depositing same with the United States Postal Service at 69 West Washington Street, Chicago, Illinois, at or before the hour of 5:00 p.m.



EVAN J. McGINLEY