

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

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DEC 19 2011

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
F.I.M., INC., )  
 )  
Respondent. )

AC 12-18  
(IEPA No. 343-11-AC)

NOTICE OF FILING

2 ORIGINAL

To: Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9278

PLEASE TAKE NOTICE that on December 16, 2011, the undersigned by third party carrier, Federal Express, mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled PETITION FOR REVIEW AND AFFIDAVIT.

Respectfully submitted,



Christopher D. Schuering, Attorney for  
F.I.M., Inc.

Christopher D. Schuering  
Attorney at Law  
Atty No. 6238041  
506 Vermont Street  
Quincy, Illinois 62301  
(217) 224-2555  
Fax: (217) 224-2569  
E-mail: [cds@gscb-law.com](mailto:cds@gscb-law.com)

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Pollution Control Board

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F.I.M., INC., )  
) )  
Respondent. )

AC 12-18  
(IEPA No. 343-11-AC)

ORIGINAL

PETITION FOR REVIEW

NOW COMES the Respondent, F.I.M., INC., by and through its attorney, Christopher D. Schuering, and, for its Petition for Review, states as follows:

1. That on or about November 15, 2011, the Illinois Environmental Protection Agency filed an Administrative Citation against the Respondent, F.I.M., Inc.

2. That said Citation alleged that the Respondent was in violation of the Illinois Environmental Protection Act in that they:

- a. Caused or allowed the open dumping of waste in a manner resulting in litter;
- b. Caused or allowed the open dumping of waste in a manner resulting in open burning;
- c. Caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris.

3. That Respondent did not cause or allow the alleged violations to take place on the property.

4. The Respondent previously owned an adjoining tract, and when the aforementioned tract was sold the agreement required the purchaser to dispose of certain of the waste identified in the citation, however the purchaser has failed to complete the task as required by the contract.

5. The Respondent alleges that there was no open burning on the site, and further notes that the Illinois EPA open dump inspection checklist attached to the administrative citation does not indicate that there was open burning on the site.

WHEREFORE, the Respondent, F.I.M., INC.:

- A. Requests that the Illinois Pollution Control Board grant its Petition for Review;
- B. Find that the Respondent is no longer in violation of the Illinois Environmental Protection Act and, therefore, not subject to any civil penalty.

Respectfully submitted



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Christopher D. Schuering, Attorney for  
F.I.M., Inc.

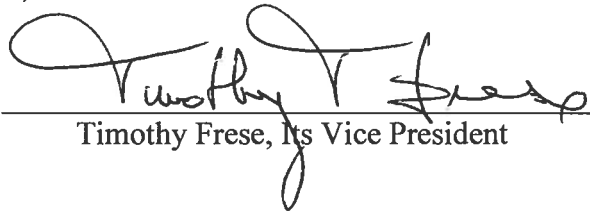
Christopher D. Schuering  
Attorney at Law  
Atty No. 6238041  
506 Vermont Street  
Quincy, Illinois 62301  
(217) 224-2555  
Fax: (217) 224-2569  
E-mail: [cds@gscb-law.com](mailto:cds@gscb-law.com)

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF ADAMS     )

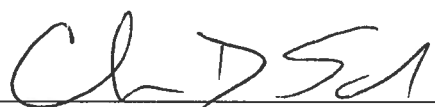
**VERIFICATION**

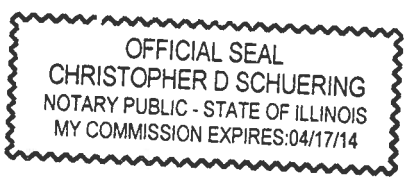
Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

F.I.M., INC.

By:   
Timothy Frese, Its Vice President

SUBSCRIBED AND SWORN TO before me  
this 16 day of December, 2011.

  
Notary Public



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Pollution Control Board

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ADMINISTRATIVE CITATION

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vs. )  
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Respondent. )

AC 12-18  
(IEPA No. 343-11-AC)

GINAI

AFFIDAVIT

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF ADAMS )

I, Timothy Frese, having been first duly sworn, do hereby state as follows:


1. That I am the Vice President of the corporation named as Respondent in the Administrative Citation filed by the Illinois Environmental Protection Agency on or about September 14, 2011.

2. That Respondent did not cause or allow the alleged violations to take place on the property.


3. That Respondent previously owned an adjoining tract, and when the aforementioned tract was sold the agreement required the purchaser to dispose of certain of the waste identified in the citation, however the purchaser has failed to complete the task as required by the contract.

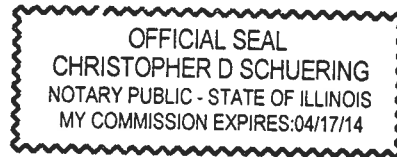
4. That Respondent alleges that there was no open burning on the site, and further notes that the Illinois EPA open dump inspection checklist attached to the administrative citation does not indicate that there was open burning on the site.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
TIMOTHY FRESE

SUBSCRIBED and SWORN TO before me  
this 16 day of December, 2011.

  
\_\_\_\_\_  
Notary Public



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Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL )  
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 F.I.M., INC., )  
 )  
 Respondent. )

AC 17-18  
 (IEPA No. 343-11-AC)

ORIGINAL

CERTIFICATE OF SERVICE

I, the undersigned, on oath or affirmation, state that on December 16, 2011, I served the attached Petition for Review, Affidavit, Notice of Filing and Notice of Appearance on the complainant by: (check appropriate line)

certified mail (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

registered mail (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

messenger service (attach copy of receipt if available, otherwise you must file receipt later with Clerk)

personal service (attach affidavit if available, otherwise you must file affidavit later with Clerk)

at the address below:

COMPLAINANT'S ADDRESS:

Name Illinois Environmental Protection Agency

Street 1021 North Grand Avenue East

City, state, zip code Springfield, Illinois 62794-9278

(list each respondent's name and address if multiple respondents)

*Ch D Scl*

Christopher D. Schuering, Respondent's attorney  
Atty No. 6238041  
506 Vermont Street  
Quincy, Illinois 62301  
(217) 224-2555  
Fax: (217) 224-2569  
E-mail: [cds@gscb-law.com](mailto:cds@gscb-law.com)

Subscribed to and sworn before me  
this 16<sup>th</sup> day of December, 2011.

*Rebecca L Owsley*  
Notary Public



My commission expires: 11/20/2013



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Division of Legal Counsel*  
**Illinois Environmental Protection Agency**  
 1021 N. Grand Avenue East  
 Springfield, IL 62794-9278

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name)  Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes  No

2. Article Number (Transfer from service label) 7009 0820 0000 0398 4440  
 PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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**STATE OF ILLINOIS  
 Pollution Control Board**

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| Restricted Delivery Fee (Endorsement Required) |                |               |
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Sent to Division of Legal Counsel  
 Illinois Environmental Protection Agency  
 1021 N. Grand Avenue East  
 Springfield, IL 62794-9278

Sent to Street, Apt. No. or PO Box No. City, State, Zip  
 PS Form 3806

DEC 19 2011

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NOTICE OF APPEARANCE

To: Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9278

The undersigned attorney, Christopher D. Schuering, hereby enters his appearance on behalf of the Respondent, F.I.M., INC., and further requests all further pleadings be served at the address listed below.



Christopher D. Schuering  
Attorney at Law  
Atty No. 6238041  
506 Vermont Street  
Quincy, Illinois 62301  
(217) 224-2555  
Fax: (217) 224-2569  
E-mail: [cds@gscb-law.com](mailto:cds@gscb-law.com)

**GOEHL, SCHUERING, CASSENS & BIER**

ATTORNEYS AT LAW  
506 VERMONT STREET  
QUINCY, ILLINOIS 62301

www.gsclawnet.com

RUSSELL R. GOEHL  
DONALD R. SCHUERING\*  
MARK A. CASSENS  
CHRISTOPHER D. SCHUERING\*  
BARNEY S. BIER\*

\* ALSO ADMITTED IN MISSOURI

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DEC 19 2011

STATE OF ILLINOIS  
Pollution Control Board

TELEPHONE: (217) 224-2555  
FAX: (217) 224-2569

FEIN #: 37-0970749

Author's e-mail: CDS@GSclawnet.com

December 16, 2011

**Via Fedex**

Illinois Pollution Control Board  
Attn: Clerk  
100 West Randolph Street  
James R. Thompsen Center, Suite 11-500  
Chicago, IL 60601-3218

ORIGINAL

Ac 12-18

**Re: IL EPA v. F.I.M., Inc. 343-11-AC**

Dear Clerk:

Enclosed please find a Petition for Review, Affidavit, Notice of Filing, Notice of Appearance and Certificate of Service in the above referenced matter. Also enclosed please find 9 additional copies of same. I would ask that you please file same.

If you require anything else from the undersigned, please do not hesitate to contact me.

Very truly yours,

GOEHL, SCHUERING, CASSENS & BIER



BY: Christopher D. Schuering

cc: Illinois EPA