

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD


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

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on September 18, 2012, Complainant filed its Reply: Motion to Compel with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A copy of Complainant's Reply is attached hereto.

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

BY:


CHRISTOPHER GRANT
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Environmental Bureau
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Chicago, Illinois 60602
(312) 814-5388

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

COMPLAINANT’S REPLY: MOTION TO COMPEL

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and respectfully requests that the Hearing Officer accept and consider a short reply to Respondent PACKAGING PERSONIFIED, INC.’s (“PPI’s”) response to Complainant’s Motion to Compel.

I. 201(k) Issue

Counsel for PPI claims that Complainant failed to resolve discovery differences prior to filing its Motion (Response pp.1-2). This claim is simply ridiculous. On page 3 of the Motion to Compel, complainant details the attempts to resolve discovery issues in detail. Exhibit C to the Motion includes two letters sent to Counsel on August 8th and 10th, 2012. These letters explain Complainant’s position point by point, interrogatory by interrogatory, and explain the relevancy of its request for information and documents. However, the Respondent has provided no meaningful supplementation of the original nonresponsive discovery responses, and this Motion to Compel is timely and appropriate.

II. Utilization of the Two Presses

Respondent's answers to Interrogatories No. 3, 4, 5, 6, 8, 9, 12 and 13 are nonresponsive and evasive. Complainant merely seeks straight answers to simple, but important, questions. Respondent cannot be allowed to avoid answering these questions, then come up with testimony on these same issues at hearing. PPI is required to search whatever files and records it may have, then either provide actual figures or an estimate based on such records it has. If it has no knowledge, "we don't know" is the appropriate answer.

III. Documents

As noted in the Motion to Compel, PPI's tax returns for the period 1995-2004 are highly relevant to its novel economic benefit of noncompliance theory. Complainant should not be required to rely on purported 'gross sales receipts' incorporated in an opinion by PPI's paid engineering expert. Determination of the economic benefit of noncompliance from the hypothetical non-operation of Press No. 4 requires that all financial information be considered. Because Complainant is not seeking personal tax returns by the owners of PPI, its objection regarding "highly confidential and personal tax and financial information" has no merit.

Also, Complainant is concerned that PPI is holding back documents. Notably, PPI claims "some records are retained permanently but not those requested by Complainant" (Response, p.5). So far PPI's production of technical documents related to Press No. 5, and other responsive documents has been extremely limited. A number of obviously relevant documents, such as the "manufacturer's guarantee" for Press No. 5 (referenced in permit documents currently in evidence) have not been produced. To avoid a fight at hearing over the use of non-produced documents, Complainant is supplementing its production request to require production of all documents that may or will be used by PPI at hearing. But PPI must also be

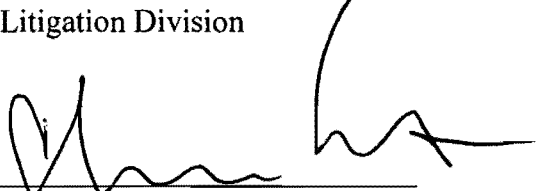
directed to search records (including records that were "not requested by Complainant") to ensure that its production is complete.

RESPECTFULLY SUBMITTED

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:



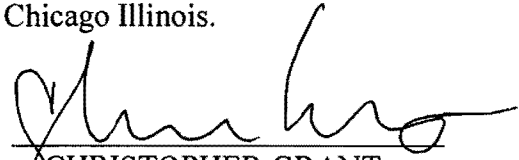
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CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 18th day of September, 2012, the foregoing Reply and Notice of Filing upon the persons listed below, by electronic transmission and by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.


CHRISTOPHER GRANT

Service List:

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Mr. John Simon
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Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
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