## ILLINOIS POLLUTION CONTROL BOARD March 7, 2013

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

ORDER OF THE BOARD (by J.A. Burke):

On February 11, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed their fourth request to extend the deadline for closing this record (Mot.). Packaging Personified, Inc. (Packaging) filed its response in support of the People's fourth request to extend the record-closing deadline on February 13, 2013. On February 14, 2013, the People filed a request to file a reply, and a reply to Packaging's response. Also on February 14, 2013, Packaging filed a motion for leave to file *instanter* along with an amended response in support of the People's fourth request for extension. The Board grants the parties' motions for leave to file.

## **BOARD DISCUSSION ON PEOPLE'S MOTION**

The People request the extension because, as of February 11, 2013, Packaging had not yet produced tax returns as ordered in a November 15, 2012 Board Hearing Officer order. Mot. at 2. The People contend that "the information contained in the complete tax returns is important to determining the financial impact of [Packaging's] novel theory of 'hypothetical non-operation.'" *Id.* The People believe that their case "will be seriously prejudiced" if the present date for close of the record, April 5, 2013, is not extended. *Id.* 

On February 14, 2013, during a status conference with the Board's Hearing Officer, the parties committed to file an agreed proposed discovery schedule including possible hearing dates for consideration of a record-closing deadline extension. *See* Feb. 14, 2013 Board Hearing Officer Order. The parties filed the agreed proposed discovery schedule (Agreed Schedule) on February 20, 2013.

Under the Agreed Schedule, Packaging shall produce income tax returns in accordance with the Hearing Officer's November 15, 2013 Order on or about March 14, 2013. Agreed Schedule at 1. The parties will produce witnesses for depositions, and all depositions shall be completed by April 17, 2013. *Id.* Finally, the record shall be closed on or before July 3, 2013. *Id.* 

The Board grants the People's motion to extend the record closing deadline pursuant to the deadlines agreed to by the parties in the Agreed Schedule. Accordingly, this record will close no later than July 3, 2013. The Board's September 8, 2011 order, which, among other things, imposed civil penalties (People v. Packaging Personified, Inc., PCB 04-16, slip op. at 43-44 (Sept. 8, 2011)), continues to be stayed pending final Board action. The Board directs the hearing officer to expeditiously schedule the supplemental hearing consistent with the new deadlines outlined below.

## **SUMMARY OF ORDER**

The Board grants the People's fourth request for extension of the record-closing deadline pursuant to the deadlines below:

- 1. Packaging shall produce income tax returns in accordance with the Hearing Officer's November 15, 2013 Order by March 14, 2013.
- 2. The parties will produce witnesses for depositions and all depositions shall be completed by April 17, 2013.
- 3. The record shall be closed by July 3, 2013.

IT IS SO ORDERED.

Members Glosser and Zalewski Concurred.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 7, 2013, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Themant