

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 DIVERSIFIED LABELING SOLUTIONS, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

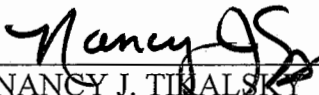
PCB No. 2013-25  
(Enforcement – Air)

**NOTICE OF FILING**

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 15th day of April, 2013, I filed with the Clerk of the Illinois Pollution Control Board a Stipulation and Proposal for Settlement and a Motion to Request Relief from Hearing Requirement, copies of which are attached hereto and are hereby served upon you.

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

BY:   
 \_\_\_\_\_  
 NANCY J. TIRALSKY  
 Assistant Attorney General  
 Environmental Bureau North  
 69 West Washington Street, Suite 1800  
 Chicago, Illinois 60602  
 312-814-8567

DATE: April 15, 2013

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

**SERVICE LIST**

Mr. Bradley Halloran  
Chief Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street, 11th Floor  
Chicago, IL 60601  
*Via email attachment (Brad.Halloran@illinois.gov)*

Timothy Ramsey  
Ungaretti & Harris  
Three First National Plaza  
70 West Madison Street, Suite 3500  
Chicago, Illinois 60602-4224  
*via email attachment (jtramsey@uhl.com)*

Maureen Wozniak  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
Springfield, IL 62794-9276  
*Via email attachment (Maureen.wozniak@illinois.gov)*

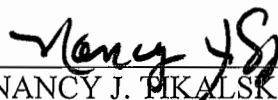
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 DIVERSIFIED LABELING SOLUTIONS, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

**PCB No. 2013-25**  
 (Enforcement – Air)

**CERTIFICATE OF SERVICE**

I, NANCY J. TIKALSKY, an Assistant Attorney General, do certify that I caused to be mailed this 15th day of April, 2013, the foregoing Motion to Request Relief from Hearing, Stipulation and Proposal for Settlement with Respondent Diversified Labeling Solutions, Inc., and Notice of Filing, by electronic transmission or by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois, as indicated on service list upon the persons listed on said notice.

  
 \_\_\_\_\_  
 NANCY J. TIKALSKY  
 Assistant Attorney General  
 Environmental Bureau  
 69 W. Washington, Suite 1800  
 Chicago, IL 60602  
 312-814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	<b>PCB No. 2013-25</b>
	)	(Enforcement – Air)
DIVERSIFIED LABELING SOLUTIONS, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT**

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in the above-captioned matter. In support thereof, the Complainant states as follows:

1. On December 6, 2012, a Complaint was filed with the Illinois Pollution Control Board (“Board”) in this matter. On April 15, 2013, a Stipulation and Proposal for Settlement was filed with the Board.
2. Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2012), effective August 1, 1996, allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties have submitted to the Board a stipulation and proposal for settlement.
3. Section 31(c)(2) of the Act, 415 5/31(c)(2) (2012), provides as follows:  
  
Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be

published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

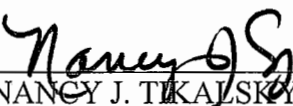
4. No hearing is currently scheduled in the instant case.
5. The Complainant requests the relief conferred by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2012).

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, requests relief from the requirement of a hearing pursuant to 415 ILCS 5/31(c)(2) (2012).

Respectfully submitted,

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

BY: \_\_\_\_\_

  
NANCY J. TIKALSKY  
Assistant Attorney General  
Environmental Bureau North  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
312-814-8567

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	<b>PCB No. 2013-25</b>
	)	(Enforcement – Air)
DIVERSIFIED LABELING SOLUTIONS, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency (“Illinois EPA”), and Respondent, Diversified Labeling Solutions, Inc. (“Diversified” or “Respondent”), (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2010), and the Board’s regulations, alleged in the Complaint, except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. **Parties**

1. On December 6, 2012, a Complaint was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), against the Respondent ("Complaint").

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010).

3. At all times relevant to this Complaint, Respondent has been and is an Illinois corporation in good standing and duly authorized to do business in the State of Illinois. Diversified owns and operates a printing facility located at 1285 Hamilton Parkway, Itasca, DuPage County, Illinois ("Facility").

B. **Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

Count I: **CONSTRUCTING EMISSION SOURCES WITHOUT A PERMIT**  
Violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9 (a) and (b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;

Count II: **OPERATING EMISSION SOURCES WITHOUT AN OPERATING PERMIT**  
Violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

Count III: **FAILURE TO SUBMIT TIMELY CAAPP APPLICATION**  
Violations of Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x) (2010), and Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);

Count IV: **FAILURE TO SUBMIT ANNUAL COMPLIANCE CERTIFICATION FOR CLEAN AIR ACT PERMIT PROGRAM**  
Violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), and Section 218.404(d)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(d)(1);

Count V: **FAILURE TO SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORTS**  
Violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a);

Count VI: **FAILURE TO PAY CONSTRUCTION PERMIT FEES**  
Violations of Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2010).

**C. Non-Admission of Violations**

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

**D. Compliance Activities to Date**

The Respondent completed remedial steps to prevent any further violations that were the subject matter of the Complaint by the following:

1. Respondent submitted to Illinois EPA, on or about April 21, 2011, an Application for Construction and/or Operating Permit for a Lifetime Source with respect to the Facility.
2. Respondent submitted to Illinois EPA, on or about August 6, 2011, an Application for a Federally Enforceable State Operating Permit ("FESOP") with respect to the Facility. Respondent withdrew the application after reducing its solvent usage.



3. Respondent re-submitted to Illinois EPA, on or about August 27, 2012, an Application for Construction and/or Operating Permit for a Lifetime Source with respect to the Facility.
4. Illinois EPA issued to Respondent, on November 21, 2012, a Construction Permit Denial – Lifetime Operating Permit Grant with respect to the Facility pursuant to which (a) Illinois EPA denied the application for a construction permit because construction was completed before the Application was submitted by Respondent and (b) Illinois EPA issued the Lifetime Operating Permit to Respondent with respect to the Facility.
5. Respondent submitted to Illinois EPA, on or about November 11, 2011, a certification of Respondent's compliance with the requirements of 35 Ill. Adm. Code 218.401.
6. Respondent has submitted to Illinois EPA Annual Emissions Reports for the Facility for the years 1999 through 2011.
7. Respondent has paid to Illinois EPA all applicable construction permit fees required under the Act.

## II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for

all violations alleged in the Complaint in this matter, for purposes of Section 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2010).

**III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2010), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Respondent's failure to obtain the requisite construction and operating permits, failure to demonstrate compliance with the Board's regulations, failure to submit a certificate of compliance with the Board's printing regulations and failure to submit Annual Emissions Reports to the Illinois EPA for its operations at the Facility impeded the Complainant's ability to properly enforce the State of Illinois' environmental laws and regulations and, further, impeded the Illinois EPA's ability to gather information to determine compliance with those laws.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.

4. Obtaining the requisite air pollution and construction permits from the Illinois EPA, and submitting a certificate of compliance with the Board's printing regulations, and Annual Emissions Reports to the Illinois EPA were technically practicable and economically reasonable requirements.

5. Respondent has subsequently complied with the Act and the Board regulations.

**IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2010), provides as follows:

In determining the appropriate civil penalty to be imposed under this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the Respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the Respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the Respondent and to otherwise aid in enhancing voluntary compliance with this Act by the Respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the Respondent;
6. whether the Respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the Respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that Respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the Respondent is not otherwise legally required to perform; and

8. whether the Respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Complainant alleges that Respondent failed to obtain the requisite air pollution and construction permits from the Illinois EPA, and failed to submit a certificate of compliance with the Board's printing regulations, and Annual Emissions Reports to the Illinois EPA. Violations may have begun as early as 1986 and have been resolved.
2. Respondent was diligent in its response to the Notice of Violation issued by the Illinois EPA by submitting a certification of compliance with the Board's printing regulations, Annual Emissions Reports and paying all construction fees, and took steps to prevent further non-compliance with the Act and Board regulations including other actions as required to obtain the Lifetime Operating Permit issued by Illinois EPA on November 21, 2012.
3. The Respondent recognized an economic benefit representing avoided air pollution site fees.
4. Complainant has determined, based upon the specific facts of this matter that a penalty of Fifteen Thousand, Five Hundred dollars (\$15,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was proposed by Respondent, but rejected by the Illinois EPA.

**V. TERMS OF SETTLEMENT**

**A. Payment**

The Respondent shall pay the sum of Twenty Thousand dollars (\$20,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation: Four Thousand, Five Hundred dollars (\$4,500.00) for deposit into the Environmental Permit and Inspection Fund; and Fifteen Thousand, Five Hundred dollars (\$15,500.00) in civil penalty for deposit into the Environmental Protection Trust Fund ("EPTF").

**B. Stipulated Penalties, Interest, and Default**

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

3. The stipulated penalties shall be enforceable by the Complainant and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Stipulation.

**C. Payment Procedures**

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA as follows:

- a. Four Thousand, Five Hundred dollars (\$4,500.00) into the Environmental Permit and Inspection Fund; and
- b. Fifteen Thousand, Five Hundred dollars (\$15,500.00) for deposit into the Environmental Protection Trust Fund ("EPTF").
- c. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. The case name, case number, and the Respondent's Federal Tax Identification Number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Nancy J. Tikalsky  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney's General Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's Facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status.

In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of the Respondent's payment of \$20,000.00 as contained in Section V.A above, its commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on December 6, 2012. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.



WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

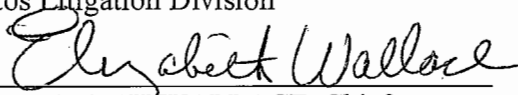
FOR THE COMPLAINANT:


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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONNETT, Director  
Illinois Environmental Protection Agency

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

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 4/5/13

DATE: 4/1/13

FOR THE RESPONDENT:

DIVERSIFIED LABELING SOLUTIONS,  
INC.

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

FOR THE COMPLAINANT:

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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

LISA BONNETT, Director  
Illinois Environmental Protection Agency

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

BY: \_\_\_\_\_  
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

FOR THE RESPONDENT:

DIVERSIFIED LABELING SOLUTIONS,  
INC.

BY: Robert V. Hakman

NAME: ROBERT V. HAKMAN

TITLE: Pres.

DATE: 3/25/13