

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

RECEIVED
 CLERKS OFFICE
 MAY 06 2013
 STATE OF ILLINOIS
 Pollution Control Board

NOTICE OF FILING

John Therriault
 State of Illinois
 Illinois Pollution Control Board
 100 W. Randolph Street – Suite 11-500
 Chicago, Illinois 60601

L. Nichole Sangha
 Assistant Attorney General
 Environmental Bureau
 69 West Washington Street, 18th Floor
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Christopher Grant
 Assistant Attorney General
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Brad Halloran
 Hearing Officer
 State of Illinois
 Pollution Control Board
 100 W. Randolph Street, Ste. 11-500
 Chicago, IL 60601

PLEASE TAKE NOTICE that on **Monday, May 06, 2013**, we filed the attached **Respondent's Motion to Mark Tax Documents as Trade Secret or Non-Disclosable Information** attached thereto, via hand delivery with the Clerk of the Illinois Pollution Control Board, copies of which are hereby served upon you.

Respectfully submitted,

PACKAGING PERSONIFIED, INC.

BY: 

One of Its Attorneys

Roy M. Harsch, Esq.
 John A. Simon, Esq.
 Drinker Biddle & Reath LLP
 191 N. Wacker Drive - Suite 3700
 Chicago, Illinois 60606-1698
 (312) 569-1000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**RESPONDENT'S MOTION TO MARK TAX DOCUMENTS AS
TRADE SECRET OR NON-DISCLOSABLE INFORMATION**

NOW COMES Respondent, PACKAGING PERSONIFIED, INC., by ROY HARSCH, ESQUIRE, and moves the Hearing Officer to designate tax returns and/or other tax information submitted by Respondent as Trade Secret or Non-Disclosable Information as defined in the Board's Procedural and Administrative Rules. In support thereof, Respondent states as follows:

1. Respondent has provided Complainant with access to certain income tax returns and information during the discovery process in this matter.

2. Respondent provided that information pursuant to an oral agreement with Complainant that the information would be treated as confidential, and the parties are currently developing a Stipulation of Facts regarding this information.

3. The Board's Procedural and Administrative Rules define Trade Secret as follows:

"Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes. [415 ILCS 5/3.490]

4. The Board's Procedural and Administrative Rules define Non-disclosable

Information as follows:

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act [415 ILCS 5/7(a)].*

5. Respondent has always maintained its tax returns as confidential and has never disclosed them to anyone unless required, and then only with agreement that the returns are to be treated as confidential and not disclosed.

6. Respondent believes that the tax returns contain business plan and financial information which would allow both its competitors and its customers to gain knowledge concerning its business plan and to take economic advantage in terms of pricing their products in competition to those produced by Respondent or negotiating purchase prices for the products that Respondent sells.


7. Respondent would suffer economic loss should this information be made public.

8. To the extent that any such tax documents would be provided for use at the hearing, Respondent will provide appropriately redacted versions at that time.

WHEREFORE, Respondent, PACKAGING PERSONIFIED, INC., respectfully requests that the Hearing Officer grant its Motion to Mark Tax Documents as Trade Secret or Non-Disclosable Information and, to the extent such information is discussed in oral testimony, that testimony should not be open to the general public.

Respectfully submitted,

PACKAGING PERSONIFIED, INC.

BY: 

One of Its Attorneys

ROY M. HARSCH
Drinker Biddle & Reath LLP
191 N. Wacker Dr., Ste. 3700
Chicago, IL 60606-1698
312-569-1441

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Respondent's Motion to Mark Tax Documents as Trade Secret or Non-Disclosable Information** was filed via hand delivery with the Clerk of the Illinois Pollution Control Board and served upon the parties below by U.S. First Class Mail and electronically on **Monday, May 6, 2013.**

John Therriault
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Illinois Pollution Control Board
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