

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 26 2001

STATE OF ILLINOIS
Pollution Control Board

COLE TAYLOR BANK, not individually,
but solely as trustee under a certain Illinois
land trust known as trust 40323; as
successor trustee to Michigan Avenue
National Bank of Chicago, under trust 1904,

Complainant,

vs.

ROWE INDUSTRIES, INC., a corporation,
successor to COLEMAN CABLE AND WIRE
COMPANY, a corporation, and CHAPCO
CARTON COMPANY, a corporation,

Respondents.

PCB- 01-173
Citizen's Enforcement

NOTICE OF FILING

TO: Chapco Carton Company
c/o Howard M. Denenberg
200 N. LaSalle Street
Suite 2100
Chicago, Illinois 60601

Any officer or agent of Rowe Industries, Inc.
c/o Talley Industries
2702 N. 44th Street
Suite 100A
Phoenix, Arizona 85008

PLEASE TAKE NOTICE that I have today filed with the Clerk of the Illinois Pollution Control Board a Complaint of Cole Taylor Bank alleging violations of Section 21(e) of the Illinois Environmental Protection Act, a copy of which is attached hereto and served upon you. You may be required to attend a hearing at a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

COLE TAYLOR BANK,
not individually but solely as trustee under a certain Illinois land
trust known as trust 40323; as successor trustee to Michigan
Avenue National Bank of Chicago, under trust 1904

By: 
One of Its Attorneys

Gerald B. Mullin
Joseph R. Podlewski, Jr.
ROSENTHAL AND SCHANFIELD, P.C.
55 East Monroe Street, 46th Floor
Chicago, Illinois 60603
(312) 236-5622

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Respondents.

PCB- 01-173
Citizen's Enforcement**COMPLAINT****VIOLATIONS OF SECTION 21(e) OF THE ILLINOIS ENVIRONMENTAL
PROTECTION ACT (415 ILCS 5/21(e))**

Complainant, Cole Taylor Bank, not individually, but solely as trustee under a certain Illinois land trust known as trust 40323; as successor trustee to Michigan Avenue National Bank of Chicago, under trust 1904; complains against the Respondents Rowe Industries, Inc., a corporation, successor to Coleman Cable and Wire Company, a corporation, and Chapco Carton Company, a corporation, and in support of its complaint states:

1. Complainant, Cole Taylor Bank, not individually, but solely as trustee under a certain Illinois land trust known as trust 40323, as successor trustee to Michigan Avenue National Bank of Chicago, under trust 1904 (hereafter "Cole Taylor") is an Illinois land trust holding legal title to certain real property located in Cook County, Illinois, commonly known as 1810 North Fifth

Avenue, River Grove, Illinois.

2. Respondent, Rowe Industries, Inc., (hereafter "Rowe") successor to Coleman Cable and Wire Company (hereafter "Coleman") is a corporation organized under the laws of Delaware. Complainant is informed and believes, and upon such information and belief alleges that Rowe has its principal place of business in Phoenix, Arizona.

3. Respondent, Chapco Carton Company (hereafter "Chapco") is a corporation organized under the laws of Delaware.

4. On May 21, 1971 Coleman, as lessee, entered into a written lease with Michigan Avenue as lessor, for the rental of certain property commonly known as 1810 North Fifth Avenue, River Grove, Illinois, (hereafter the "Property") which lease terminated on December 31, 1996.

5. In 1984 Coleman, as sublessor, entered into a sublease agreement with Chapco as sublessee. Chapco remained in possession of the Property from 1984 as Coleman's sublessee until December 31, 1996, the date of expiration of Coleman's lease.

6. At various times between 1971 and the date of the filing of this complaint, the exact dates of which are at present unknown to Complainant, and during the time that the Property was in the possession and control of Coleman and/or Chapco, either or both of Coleman and/or Chapco, caused or allowed certain hazardous materials containing, among other substances classified as hazardous substances under the Illinois Environmental Protection Act (the "Act")(415 ILCS 5/3.14). to become deposited in the soil at the Property.

7. Analyses of soil samples taken in February, 2001 from the Property reveal hazardous substances to be present. Specifically, tetrachloroethene, arsenic, benzo(a)pyrene and lead were found in the soil in the following concentrations:

Compound	Boring No.	Depth of Sample (in feet)	Concentration
Tetrachloroethene	B-2	0-3	330 parts per billion (ppb)
Arsenic	B-3	0-3	18,000 ppb
Benzo(a)pyrene	B-1	0-3	230 ppb
Lead	B-1	0-3	440,000 ppb

8. The contamination of the soil at the Property results from the Respondents' use of hazardous substances at the Property.

9. Section 3.53 of the Act defines "Waste" as, inter alia, any "discarded material" resulting from commercial operations (415 ILCS 5/3.53).

10. The hazardous substances found in the soil at the Property, including tetrachloroethene, arsenic, benzo(a)pyrene and lead, constitute "Waste" as that term is defined in Section 3.53 of the Act (415 ILCS 5/3.53).

11. Section 3.08 of the Act defines "Disposal" as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

415 ILCS 5/3.08.

12. The disposal of waste has occurred at the Property, as evidenced by the existence of hazardous substances, including tetrachloroethene, arsenic, benzo(a)pyrene and lead in the soil at the Property.

13. Section 21(e) of the Act provides that:

No person shall...[d]ispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

415 ILCS 5/21(e).

14. The Property does not meet the requirements of a waste disposal site or facility under the Act and applicable Illinois Pollution Control Board regulations.

15. By causing or allowing the contamination of soil at the Property with hazardous substances, including tetrachloroethene, arsenic, benzo(a)pyrene and lead, the Respondents have engaged in the disposal of waste at the Property in violation of Section 21(e) of the Act.

16. Such violation of Section 21(e) of the Act is continuing, and will continue unless and until abated by order of the Illinois Pollution Control Board.

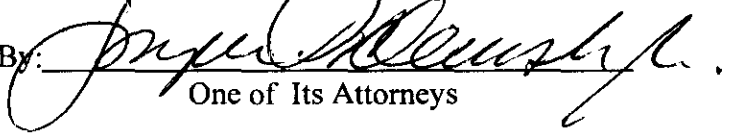
WHEREFORE, Complainant, Cole Taylor Bank, not individually, but solely as trustee under a certain Illinois land trust known as trust 40323; as successor trustee to Michigan Avenue National Bank of Chicago, under trust 1904 prays for the entry of an order against the Respondents Rowe Industries, Inc., a corporation, successor to Coleman Cable and Wire Company, a corporation, and Chapco Carton Company, a corporation, pursuant to Sections 33(a) and 33(b) of the Act (415 ILCS 5/33(a), (b)):

- A. Directing the Respondents to cease and desist from further violations of Section 21(e) of the Act;
- B. Mandating and directing the abatement of the continuing violations of Section 21(e) of the Act by the Respondents through the remediation of

Complainant's Property and removal of all contamination on the Property resulting from the disposal of hazardous substances thereon; and

- C. Granting such other relief as the Illinois Pollution Control Board may deem appropriate.

COLE TAYLOR BANK,
not individually but solely as trustee under a certain Illinois land
trust known as trust 40323; as successor trustee to Michigan
Avenue National Bank of Chicago, under trust 1904.

By: 
One of Its Attorneys

Gerald B. Mullin
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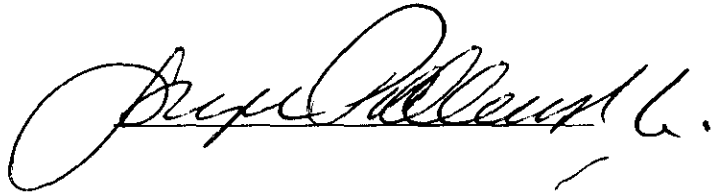
CERTIFICATE OF SERVICE

I, the undersigned, an attorney, certify that I caused a copy of the foregoing Notice of Filing and Complaint to be served upon:

Chapco Carton Company
c/o Howard M. Denenberg
200 N. LaSalle Street
Suite 2100
Chicago, Illinois 60601

Any officer or agent of Rowe Industries, Inc.
c/o Talley Industries
2702 N. 44th Street
Suite 100A
Phoenix, Arizona 85008

by enclosing the same in an envelope with first-class postage prepaid, certified mail, return receipt requested and depositing the same in the U.S. Mail Chute located at 55 East Monroe Street, Chicago, Illinois, on this 26th day of June, 2001.

A handwritten signature in cursive script, appearing to read "Bruce M. Denenberg", is written over a horizontal line.