

ILLINOIS POLLUTION CONTROL BOARD

DALE L. STANHIBEL,)
)
Complainant,)
)
Vs.)
)
TOM HALAT d/b/a TOM'S) PCB 07-17
VEGETABLE MARKET) (Citizens Enforcement-Air, Noise)
)
Respondent.)
)
)
)
)

NOTICE OF FILING

To: Mr. Dale L. Stanhibel
10328 Fleetwood Street
Huntely, Illinois 60142

Please take notice, that I have today filed with the Office of the Clerk of the Pollution Control Board the attached Appearance, Motion to vacate any possible default, extend time to respond to the Complainant, and for leave to file a Motion to dismiss of TOM HALAT, d/b/a TOM'S VEGETABLE MARKET, a copy of which is herewith served upon you.

/S/

Steven J. Greeley, Jr.,

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DALE L. STANHIBEL,)
)
Complainant,)
)
Vs.)
)
TOM HALAT d/b/a TOM'S) PCB 07-17
VEGETABLE MARKET) (Citizens Enforcement-Air, Noise)
)
Respondent.)
)
)
)

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of TOM HALAT d/b/a VEGETABLE MARKET.

_____/S/
Steven J. Greeley, Jr.,

FRANKS, GERKIN & MCKENNA, P.C.
Attorneys for Respondent
19333 E. Grant Hwy, P.O. BOX 5
Marengo, Illinois 60152
Telephone: (815)-923-2107
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ILLINOIS POLLUTION CONTROL BOARD
November 2, 2006

DALE L. STANHIBEL,)
)
Complainant,)
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Vs.)
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TOM HALAT d/b/a TOM'S) PCB 07-17
VEGETABLE MARKET) (Citizens Enforcement-Air, Noise)
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Respondent.)
)
)
)
)

MOTION TO VACATE ANY POSSIBLE DEFAULT,
EXTEND TIME TO RESPOND TO THE COMPLAINT, AND FOR LEAVE TO
FILE A MOTION TO DISMISS.

NOW COMES the Respondent, TOM HALAT d/b/a TOM'S VEGETABLE MARKET, by and thru his attorneys FRANKS, GERKIN & McKENNA, P.C., and for it's Motion to vacate any possible default, extend time to respond to the complaint, and for leave to file a Motion to dismiss, states as follows:

1. Complainant, DALE L. STANHIBEL, filed the formal Complaint in this matter on September 18, 2006.
2. On November 2, 2006, this board ordered that the Complainant file the Proof of Service on the Complaint.
3. The Respondent, TOM HALAT as a non-attorney, was unaware of the requirements to respond or otherwise plead to the Complaint based on the failure of the Complainant to attach the notice, to the Complaint as required under 35 IL .ADM. Code Section 103.204 (a), (b), & (f).
4. Respondent, TOM HALAT obtained counsel to assist in the defense of this matter upon receipt of the Board's Order of November 2, 2006.

5. Respondent, TOM HALAT through advice of his counsel, desires leave to file a Motion to Dismiss pursuant to 35 IL. ADM. Code Section 101.506 and pursuant to 35 IL ADM. Code Section 101.500 based on 735 ILCS 5/2-619 (a) as there is an affirmative matter that negates that legal effect of the claim.
6. In the event that such Motions are denied in full or in part, the Respondent respectfully desires additional time to respond to the Complaint on it face.

WHEREFORE, the Respondent, TOM HALAT, d/b/a TOM'S VEGETABLE MARKET hereby prays that the Board vacate any possible technical defaults in this matter, extend the time for a response, and grant leave to file a motion or motions to dismiss prior to responding and any other further relief that this Board deems just and equitable.

Respectfully Submitted,
FRANKS, GERKIN & MCKENNA, P.C.

By: _____/S/
Steven J. Greeley, Jr.,

FRANKS, GERKIN & MCKENNA, P.C.
Attorneys for Respondent
19333 E. Grant Hwy, P.O. BOX 5
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