

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by LISA MADIGAN, Attorney)	
General of the State of Illinois)	
)	
Complainant,)	
)	
v.)	No. PCB 08-08
)	
ARONA CORPORATION., an Iowa corporation)	
D/B/A AARON'S SALES & LEASE)	
OWNERSHIP)	
)	
Respondents.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on the 14th day of November, 2007, 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: *Vanessa Cordonnier*
VANESSA M. CORDONNIER
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Fl.
Chicago, IL 60602
(312) 814-0608

DATE: November 14, 2007

SERVICE LIST

Mr. Thomas R. Bernau
4801 Grand Ave.
Des Moines, IA 50312

Mr. Bradley Halloran
Chief Hearing Officer
Illinois Pollution Control Board
100 West Randolph Street, 11th Floor
Chicago, IL 60601

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Respondents.)

**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 July 18, 2007, a Complaint was filed with the Pollution Control Board ("Board") in this matter. On November 14, 2007, 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), 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. Section 31(c)(2) provides:

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).

3. No hearing is currently scheduled in the instant case.
4. The Complainant requests the relief conferred by Section 31(c)(2) of the Act.

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)(2002).

Respectfully submitted,

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

By: 
VANESSA M. CORDONNIER
Assistant Attorney General
Environmental Bureau

69 W. Washington St. 18th Fl.
Chicago, IL 60602
(312) 814-0608

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PEOPLE OF THE STATE OF ILLINOIS,)
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General of the State of Illinois,)
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Complainant,)
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OWNERSHIP)
)
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 ARONA CORPORATION, D/B/A AARON'S SALES & LEASE OWNERSHIP ("Arona" or "Respondent"), 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. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Arona agrees to be bound by the Stipulation and Board

Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2006).

II. AUTHORIZATION

The undersigned representatives for each party 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.

III. STATEMENT OF FACTS

A. Parties

1. On July 18, 2007, 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(2006), against Arona.

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 (2006).

3. At all times relevant to the Complaint, Arona was and is an Iowa corporation that is authorized to transact business in the State of Illinois.

B. Site Description

1. At all times relevant to the Complaint in this matter, Arona operated a business that sells and leases residential and office furniture, consumer electronics, appliances, and computers located at 3730 East State Street, Rockford, Winnebago County, Illinois ("Site").

2. On August 16, 2006, an Arona employee discharged between two and twenty gallons of gasoline into a storm sewer and onto the ground of a property located at 2932 18th Street in Rockford, Winnebago County, Illinois.

C. Allegations of Non-Compliance

Complainant contends that Arona has violated the following provisions of the Act:

- Count I: Water Pollution, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2006).
- Count II: Water Pollution Hazard, in violation of Section 12(d) of the Act, 415 ILCS 5/12(d) (2006).
- Count III: Open Dumping, in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2006).
- Count IV: Improper Disposal of Waste, in violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2006).

D. Admission of Violations

Arona admits to the violations alleged in the Complaint filed in this matter and referenced within Section III.C herein.

E. Compliance Activities to Date

Arona fully remediated the August 16, 2006 release of gasoline the same day the release occurred. Arona provided the Illinois EPA with an itemized list of services provided by the clean-up contractor and the costs incurred for clean-up.

IV. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and Arona, and any officer, director, agent, or employee of Arona, as well as any successors or assigns of Arona. Arona 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.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of Arona to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

VI. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2006), 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 state the following:

1. Human health and the environment were threatened by Arona's violations.
2. There is a social and economic benefit to the Site.
3. Operation of Aaron's Sales and Lease Ownership was suitable for the area in Rockford, Illinois in which it was located.
4. Refraining from discharging gasoline onto the ground and into a storm sewer is both technically practicable and economically reasonable.
5. Arona has subsequently complied with the Act.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2006), 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; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a 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.

In response to these factors, the parties state as follows:

1. Arona's violations occurred on August 16, 2006. The release of gasoline was limited to a two square yard area and was remediated the same day that it was released.
2. Arona was diligent in remediating the release, once the Illinois EPA notified it of its noncompliance with the Act.
3. Arona accrued no economic benefit as a result of its non-compliance with the Act, because the gasoline release was remediated the same day the release occurred.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Six Thousand Dollars (\$6,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Arona 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.

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. Arona shall pay a civil penalty in the amount of Six Thousand Dollars (\$6,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The penalty described in this Stipulation shall be paid by certified check or money order payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Arona's Federal Employer Identification Number (FEIN), 42-1455271, shall appear on the check. A copy of the certified check or money order shall be sent to:

Vanessa Cordonnier
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, Illinois 60602

Paul Jagiello
Assistant Counsel
Illinois Environmental Protection Agency
9511 West Harrison
Des Plaines, IL 60016

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2006), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2006). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check or money order, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Arona may be reached at the following address:

Thomas R. Bernau, President
Arona Corporation
4801 Grand Ave.
Des Moines, IA 50312

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D, below, Arona hereby agrees that this Stipulation may be used against Arona in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2006). Further, Arona agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

Arona shall cease and desist from future violations of the Act that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

D. Release from Liability

In consideration of Arona's payment of the \$6,000.00 penalty and its commitment to Cease and Desist as contained in Section VIII.C and upon the Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges Arona from any further liability or penalties for violations of the Act 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 July 18, 2007. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Arona 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 Arona'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 or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Arona.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon Arona's Site which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. 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.

F. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for payments pursuant to Section VIII.A ("Penalty Payment") of this Stipulation shall be submitted as follows:

As to the Complainant

Vanessa Cordonnier
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, Illinois 60602

Paul Jagiello
Assistant Counsel
Illinois EPA
9511 West Harrison
Des Plaines, IL 60016

As to the Respondent

Thomas R. Bernau, President
Arona Corporation
4801 Grand Ave.
Des Moines, IA 50312

G. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.F. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

H. Enforcement of Board Order

1. 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.

2. Arona agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Arona that the provisions of this Stipulation and any Board Order accepting and approving such shall be severable, and should any provision

be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

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WHEREFORE, Complainant and Arona request that the Board adopt and accept the foregoing Stipulation as written.

PEOPLE OF THE STATE OF ILLINOIS,

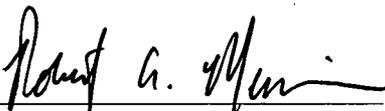
LISA MADIGAN
Attorney General
State of Illinois

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

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

DATE: 9/25/07

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

BY: 
ROBERT A. MESSINA
Chief Legal Counsel

DATE: 9/17/07

ARONA CORPORATION, D/B/A AARON'S
SALES & LEASE OWNERSHIP

BY: Thomas R. Bernau, Pres

DATE: 10.15.07

Name: BERNAU

Title: PRESIDENT

CERTIFICATE OF SERVICE

I, VANESSA M. CORDONNIER, an Assistant Attorney General in this case, do certify that I caused to be served this 14th day of November, 2007, the foregoing Stipulation and Proposal for Settlement, Motion to Request Relief From Hearing Requirement and Notice of Filing upon the persons listed on said Notice by depositing same in an envelope, first class postage prepaid, with the United States Postal Service at 69 W. Washington St., Chicago, Illinois, at or before the hour of 5:00 p.m.


VANESSA M. CORDONNIER