

ILLINOIS POLLUTION CONTROL BOARD  
February 20, 2003

GINA PATTERMANN, LISA COLLINS, and )  
DEEN COLLINS, )  
 )  
Complainants, )  
 )  
v. ) PCB 99-187  
 ) (Citizens Enforcement - Noise, Air)  
BOUGHTON TRUCKING AND )  
MATERIALS, INC., )  
 )  
Respondent. )

ORDER OF THE BOARD (by N. J. Melas):

On January 24, 2003, Boughton Trucking and Materials, Inc., (Boughton) filed a motion to dismiss complainants Lisa Collins and Deen Collins (Collinses) from this matter (mot.). The Collinses filed this citizens' enforcement complaint against Boughton on June 17, 1999 alleging noise and air pollution violations.

**PROCEDURAL BACKGROUND**

Of the three named complainants, only Gina Patterman signed the original June 17, 1999 complaint. On July 22, 1999, the Board granted the Collinses time to file an amended complaint signed by each complainant either personally or through an attorney. On August 13, 1999, the Collinses filed an amended complaint signed by all three named complainants.<sup>1</sup> Subsequent to that date, complainants Lisa and Deen Collins have signed only two additional filings, a motion for leave to file a late response to Boughton's motion to dismiss dated August 18, 1999, and the response to Boughton's motion to dismiss dated September 21, 1999. Attorney Steven Kaiser made an appearance on behalf of only Gina Patterman on October 23, 2001.<sup>2</sup> To date, neither of the Collinses have appeared in this proceeding either personally or through an attorney. The Collinses did not respond to the motion to dismiss.

**BOUGHTON'S ARGUMENTS**

Boughton argues that the Board should not allow Lisa and Deen Collins to participate in this proceeding after they have failed to appear or otherwise pursue their allegations since September 21, 1999. Correspondence sent by Boughton to Lisa and Deen Collins has been returned as undeliverable and without a forwarding address. In particular, the Collinses did not responded to a first set of interrogatories and document requests Boughton sent them via first

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<sup>1</sup> This is contrary to Boughton's motion to dismiss that contends the Collinses "have never signed any documents in this proceeding." Mot. at 1.

<sup>2</sup> Steven Kaiser withdrew as counsel for Gina Patterman on August 2, 2002.

class U.S. mail and UPS delivery on June 22, 2001. Boughton also alleges that Lisa and Deen Collins have not participated in any of the approximately fifteen status conferences scheduled in this matter. Boughton contends allowing the Collinses to participate will unduly prejudice Boughton by delaying the proceeding and causing Boughton to incur additional costs in defending itself. Consequently, Boughton requests the Board to dismiss the Collinses due to their failure to respond to discovery, appear at status conference calls, or otherwise participate in this proceeding.

### **DISCUSSION**

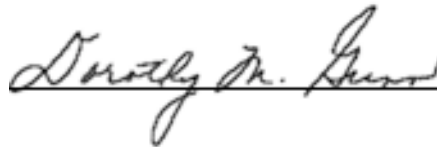
The Board has previously determined that representation of other parties before the Board is the practice of law and, therefore, only an attorney may represent another party before the Board. *See In re Petition of Recycle Technologies*, AS 97-9, slip op. at 4 (July 10, 1997); *Graf v. Valiquet, Inc.*, PCB 99-125, slip op. at 3 (Apr. 15, 1999). Because Gina Patterman does not appear to be an attorney, she may not represent the Collinses in this matter.

Failure to appear in a Board proceeding is grounds for dismissal of a complainant. *Smith v. Heritage Tool & Die Manufacturing, Inc.*, PCB 99-145, slip op. at 3 (June 3, 1999); *Doruff et al. v. Bloomington Elementary School Dist.*, PCB 93-204 (Jan. 6, 1994). The Collinses have not signed any documents nor otherwise appeared in this proceeding since September 21, 1999, and have not responded to any discovery. The Board finds that the Collinses lack of prosecution in this matter will unduly prejudice Boughton and delay this proceeding should they be allowed to remain complainants. The Board dismisses complainants Lisa and Deen Collins pursuant to precedent and Board procedural rules.

Accordingly, the Board directs the Clerk of the Board to amend the caption in this matter to reflect Gina Patterman as the sole complainant.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 20, 2003, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board