

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.) PCB 04-16
)
PACKAGING PERSONIFIED, INC.,) (Enforcement)
an Illinois corporation,)
)
Respondent.)

NOTICE OF FILING

PLEASE TAKE NOTICE that on August 27, 2012, Complainant filed its Motion to Cancel Hearing by electronic filing. A copy of Complainant's Motion is attached hereto and herewith served upon you.

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

BY: 

CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

MOTION TO CANCEL HEARING

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to 35 Ill. Adm. Code 101.510 respectfully requests that the Hearing Officer cancel the hearing in this matter scheduled for September 24-25, 2012. In support thereof, Complainant states as follows:

1. This matter is currently set for hearing on September 24th and 25, 2012. Hearing is to be held on certain issues described by the Illinois Pollution Control Board ("Board") in its March 1, 2012 Order. The date set by the Board for close of the record is currently December 4, 2012.
2. Simultaneously with the filing of this Motion, Complainant is filing a motion with the Board to extend the December 4, 2012 record deadline.
3. Complainant requests cancellation of the hearing because of problems that have arisen in discovery. Complainant will also be filing a Motion to Compel with the Hearing Officer, laying out the basis for Complainant's discovery issues. In sum, Respondent has failed to provide sufficient information to allow Complainant to address the questions raised by the Board. For example, the Board has directed that hearing be held on whether Respondent could

have accommodated all of the production of the two solvent ink flexographic presses (No. 4 and No.5) during a nine year period using only Press No. 5. The hours that the two presses operated during this period are vital to a determination of this issue: there are only 8,760 hours in a year. If the total production hours of the presses exceed this figure, they Board's question must be answered in the negative. However, Respondent has avoided answering this Interrogatory. The State cannot proceed to hearing until it has sufficient information on this and other important issues related to operation during the relevant period.

4. Complainant has made every reasonable effort to prepare for hearing on an expedited basis, and to resolve disputes over the unanswered discovery.

5. The current discovery deadlines, set in anticipation of a late-September hearing, call for deposition of fact witnesses to be completed by August 31, 2012, and for all depositions to be completed by September 6, 2012. However, Complainant will not be able to effectively depose Respondent's fact witnesses by these dates because of Respondent's failure to provide complete discovery responses.

6. Complainant also will need to supplement its expert witness disclosure prior to the hearing date, and provide sufficient time for Respondent to depose Complainant's expert. Because the Respondent has not produced sufficient responsive technical information, Complainant's expert is unable to complete the supplemental expert witness disclosure.

7. The Parties and the Board are entitled to a fair hearing on the issues the Board specified. Complainant does not believe that such a hearing can be conducted without a complete response to its discovery requests. However, given the current discovery schedule and hearing date, these issues are unlikely to be resolved.

8. Pursuant to 35 Ill. Adm. Code 101.510(b), a party moving to cancel hearing must provide a suggested substitute hearing date. Complainant suggests that hearing be rescheduled for November 14-15, 2012. The Hearing Officer may also consider setting a date after the discovery issues are resolved.

WHEREFORE, complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Hearing Officer:

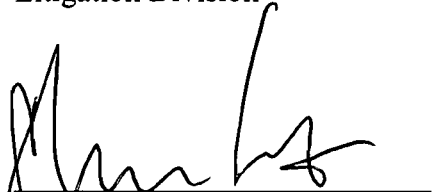
1. Cancel the hearing in this matter scheduled for September 24-25, 2012.
2. Reschedule hearing for November 14-15, 2012, or another date as determined by the Hearing Officer upon consultation with the Board and the Parties; and
3. Order such other relief as the Hearing Officer deems appropriate.

RESPECTFULLY SUBMITTED

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

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

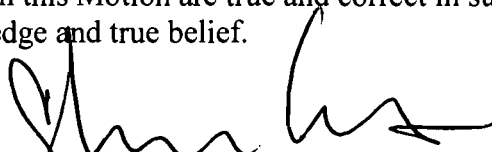
BY:


CHRISTOPHER GRANT
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

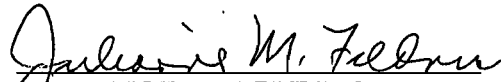
AFFIDAVIT

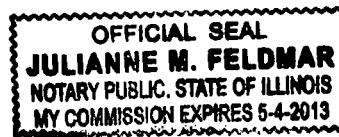
I, CHRISTOPHER J. GRANT, being duly sworn on oath depose and state as follows:

1. I am employed by the Illinois Attorney General's Office as an Assistant Attorney General, Environmental Bureau.
2. I am assigned to this case, and drafted Complainant's Motion to Cancel Hearing ("Motion").
3. The factual matters set forth in this Motion are true and correct in substance and fact, to the best of my knowledge and true belief.


CHRISTOPHER J. GRANT

SUBSCRIBED AND SWORN TO BEFORE
me this 27th day of August, 2012


NOTARY PUBLIC

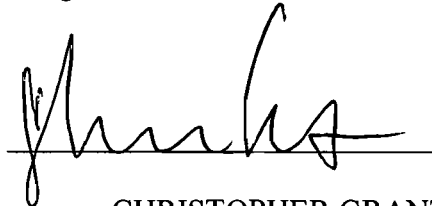


BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 27th day of August, 2012, the foregoing Motion to Cancel Hearing, and Notice of Filing, upon the persons listed below, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois.



CHRISTOPHER GRANT

Service List:

Mr. John Simon
Mr. Roy Harsch
Drinker Biddle Reath
191 N. Wacker Drive, Suite 3700
Chicago, IL 60606

Mr. Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph
Chicago IL 60601 (by hand delivery)

Mr. John Therriault
Illinois Pollution Control Board
100 W. Randolph
Chicago, IL (by electronic filing)