

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

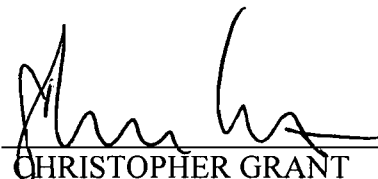
PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB 04-16
)	
PACKAGING PERSONIFIED, INC.,)	(Enforcement)
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

PLEASE TAKE NOTICE that on February 14, 2013, Complainant filed its Request to File Reply, and Reply to Respondent's Response: Forth Request to Extend Record Deadline, with the Office of the Clerk of the Illinois Pollution Control Board, by electronic filing. A copy of Complainant's Reply is attached hereto.

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.)	

REQUEST TO FILE REPLY AND REPLY TO RESPONDENT'S RESPONSE: FOURTH REQUEST TO EXTEND RECORD DEADLINE

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and respectfully requests that the Illinois Pollution Control Board ("Board") accept a short brief in reply to Respondents Response to Complainant's Motion to Extend Record Deadline. While the Board's Procedural Rules only allow for a reply to prevent material prejudice, Complainant believes that such circumstances exist, and request that the Board consider Complainant's Reply.

1. Complainant is Not Seeking the Personal Financial Information of Dominick Imburgia

In its Response, Packaging Personified repeatedly misstates the nature of Complainant's request for Packaging Personified, Inc.'s tax returns. The tax returns of a Subchapter S corporation do not represent the personal returns of its owners, but those of the corporation. Revenue, labor costs, utility costs, environmental compliance costs, depreciation, borrowings, profit and losses are those of the corporation, not of its owners. And this corporation, Packaging Personified, Inc., is a party to the case. This corporation, not its owners, formally requested this long-delayed second hearing.

The sole impact of selecting to proceed under Subchapter S of the Internal Revenue Code is that income taxes are not applied at the corporate level, but are the responsibility of the owners¹. However, the corporation must still file a return, and it is these returns that have been ordered produced. Mr. Imburgia is one of at least two owners of Respondent. But his personal income from PPI, other companies he may own and any other income source he may have, personal deductions, and any other personal financial information that might be divulged in his *personal* tax returns, have no relevance to this case, and are of no interest to Complainant. Respondent's representations to the contrary are misleading and incorrect².

2. The Response Suggests that Respondent is Unwilling to Comply with the November 15, 2012 Hearing Officer Order.

Respondent vigorously fought production of its tax returns, but did not appeal the November 15, 2012 Hearing Officer order to the Board. Instead, it has simply not complied. While it is true that the Parties have been in discussion about keeping the information confidential, Complainant has never received confirmation that the returns will actually be produced, regardless of any agreement. Instead, we are told that they are "discussing the matter with their client".

After having filed two motions to compel, and three requests for extension based on delays in production, Complainant is surprised that Respondent believes it has "timely responded to this discovery". The delays in this case have not been caused by the claimed lack of documents, but by Respondents failure to produce what it has, and failure to answer direct

¹ Respondent was a "C" corporation until 2000, when it converted to an "S" corporation.

² See, e.g. *Response*, Par. 5: "the decision to produce Mr. Imburgia's complete tax returns has been delayed by several events"; *Response*, Par. 7 "...illness will continue to delay the ability of Respondent to produce Mr. Imburgia's tax returns". In fact, no one wants Mr. Imburgia's tax returns.

questions posed in Interrogatories. Despite the fact that Respondent sought this second hearing, it has been evasive and dilatory.

The Board must order short deadlines for compliance. While Complainant obviously sympathizes with the family health issues of the president of the Respondent, production of the tax returns should require no more than a phone call to the company accountant.

This reconsideration issues is now approaching one year in duration. Complainant requests that the Board direct that Respondent produce all requested tax return information within seven (7) days, and cooperate fully in scheduling a hearing without further delay

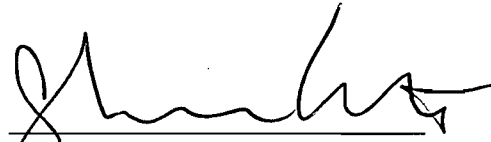
RESPECTFULLY SUBMITTED

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

ELIZABETH WALLACE, Chief
Environmental Bureau

BY:



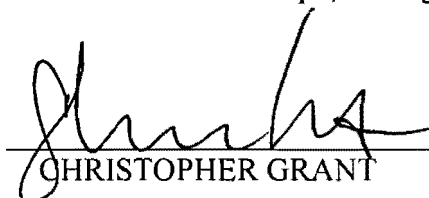
CHRISTOPHER GRANT
Environmental Bureau
Assistant Attorney General
69 W. Washington Street, #1800
Chicago, Illinois 60602
(312) 814-5388

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 13th day of February, 2013, the foregoing Request for Reply and Reply, and Notice of Filing, upon the persons listed below, by electronic transmission and 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. Roy Harsch
Mr. John Simon
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, 11th Floor
Chicago, Il 60601 (By Hand Delivery)

Mr. John Therriault
Clerk, Illinois Pollution Control Board
(by electronic filing)