

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
CHARLES H. SCHEAFER, JR.)
D/B/A CHUCKS AUTO SALES,)
)
Respondent.)

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JUN 16 2014

STATE OF ILLINOIS
Pollution Control Board

AC 14-51

(IEPA No. 127-14-AC)



ORIGINAL

PETITION FOR REVIEW

The undersigned Respondent, CHARLES H. SCHEAFER, JR., d/b/a Chucks Auto Sales by and through his Attorney, MICHAEL T. MAHONEY, does hereby submit this Petition for Review of the Administrative Citation filed herein and in support thereof, states as follows:

1. That the alleged violation that Respondent caused or allowed the open dumping of waste in a manner resulting in litter constituting a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1)(2012) resulted from uncontrollable circumstances as contemplated by 415 ILCS 5/31.1(d)(2); and, consequently, the Board should adopt a final order which makes no finding of violation and which imposes no penalty. This alleged violation relates to one wheelbarrow full of cardboard waste upon Respondent's property next to a garage inadvertently not picked up by Respondent's workers within a few hours prior to the Department's inspection which Respondent immediately removed same following the inspector's observance of same. Respondent has never allowed anyone to dump any waste of any kind upon his property.

2. That the alleged violation that Respondent caused or allowed the open dumping of waste in a manner resulting in open burning being a violation of Section 21 (p)(3) of the Act, 415 ILCS 5/21(p)(3)(2012) entails the following mitigating circumstances:

(a) the burning consisted almost entirely of landscape waste which contained two pieces of radio speakers which Respondent has no idea where the radio speaker pieces came from;

3. That the alleged violation that Respondent caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, being 415 ILCS 55(k)(1)(2012) resulted from uncontrollable circumstances as contemplated by 415 ILCS 5/31.1(d)(2); and, consequently, the Board should adopt a final order which makes no finding of violation and which imposes no penalty. This alleged violation relates to some tires on a trailer which had been covered but at the time of inspection the covers had blown off and some water had accumulated due to a recent rainfall before Respondent had the opportunity to remedy same. All other tires on the premises were properly secured from the elements. In the future, all tires will be stored in a shed on Respondent's property and all tires are in fact stored in a shed at the present time.

4. That the imposition of the \$4,500.00 penalties as proposed would result in an arbitrary or unreasonable financial hardship for the Respondent.

5. That the non-compliance identified has been corrected and the Respondent has completely and promptly cooperated with Complainant's inspection and requirements for remediation.

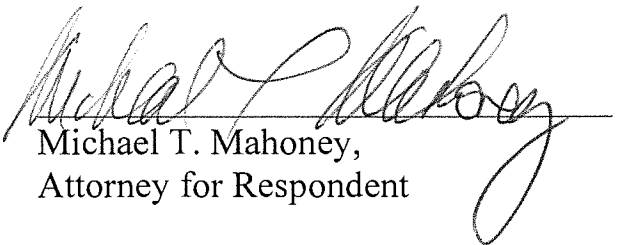
6. That the Respondent pledges to prevent a reoccurrence of the non-compliance.

7. That the non-compliance did not result in serious actual harm or present an imminent and substantial endangerment to human health or the

environment or violate the specific terms of any judicial or administrative order or consent agreement.

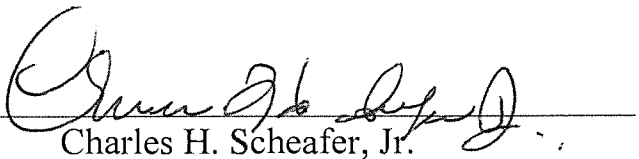
8. That the Respondent has never had a prior administrative citation.

Respectfully submitted

By: 
Michael T. Mahoney,
Attorney for Respondent

STATE OF ILLINOIS)
)) SS.
COUNTY OF PEORIA)

Under the penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Charles H. Scheafer, Jr.

MICHAEL T. MAHONEY, LTD.
1011 N. Second Street
P.O. Box 295
Chillicothe, Illinois 61523
Telephone: (309) 274-5451
Email: mahoney@mtco.com

PROOF OF SERVICE

I hereby certify that I did on the 12th day of June, 2014, send by first class mail with first class postage duly pre-paid, by depositing same in a U.S. mailbox at Chillicothe, Illinois, the original of the attached "Petition for Review" addressed as follows:

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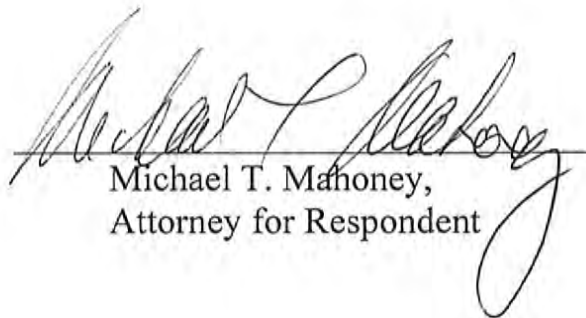
JUN 16 2014

STATE OF ILLINOIS
Pollution Control Board

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

and a copy of the attached "Petition for Review" addressed as follows:

Illinois Environmental Protection Agency
ATTN.: Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 61794-9276


Michael T. Mahoney,
Attorney for Respondent

MICHAEL T. MAHONEY, LTD.
1011 N. Second Street
P.O. Box 295
Chillicothe, Illinois 61523
Telephone: (309) 274-5451
Email: mahoney@mtco.com

Law Offices of

MICHAEL T. MAHONEY, LTD.

Michael T. Mahoney
Attorney at Law
Kristine A. Petersen
Legal Assistant

1011 N. Second Street
P. O. Box 295
Chillicothe, Illinois 61523
(309) 274-5451
www.mahoneyltd.com

411 Hamilton Blvd.
Suite 1900
Peoria, Illinois 61602
(309) 673-0375

Reply to: **P. O. Box 295**
Chillicothe, IL 61523

June 12, 2014

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

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STATE OF ILLINOIS
Pollution Control Board

RE: Illinois Environmental Protection Agency
v. Charles H. Scheafer, Jr. d/b/a Chucks Auto Sales
IEPA No. 127-14-AC

Dear Clerk:

Please find enclosed an original and a photocopy of a "Petition for Review" in connection with the above-referenced matter. Please file the original Petition for Review and return the file-stamped copy of same to our office in the self-addressed, stamped envelope provided for your convenience.

Thank you for your kind cooperation and expert assistance.

Best regards,


Michael T. Mahoney

MTM:kp
Enclosures
cc: Illinois EPA Division of Legal Counsel