

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 27 2003

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
)
Respondent.)

No. PCB 03-51

NOTICE OF FILING

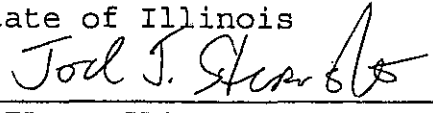
TO: See Attached Service List

PLEASE TAKE NOTICE that on June 27, 2003, the People of the State of Illinois filed with the Illinois Pollution Control Board COMPLAINANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT, true and correct copies of which are attached and hereby served upon you.

Respectfully submitted,

LISA MADIGAN
Attorney General
State of Illinois

BY:



JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-6986

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 27 2003

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
General of the State of Illinois)
Complainant,)
v.)
DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
Respondent.)

No. PCB 03-51

COMPLAINANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 101.516 of the Illinois Pollution Control Board Procedural Regulations, 35 Ill. Adm. Code 101.516, hereby moves for the entry of an order granting summary judgment in favor of the Complainant and against Respondent DRAW DRAPE CLEANERS INC.

INTRODUCTION

An eight-count complaint was filed in this matter on October 15, 2002. A copy of which is attached hereto and incorporated herein as Exhibit A. This complaint involves a petroleum solvent dry cleaning facility operated by Respondent located at 2235-2239 West Roscoe Street, Chicago, Cook County, Illinois. Complainant seeks summary judgement against Respondent on four of the eight counts: Count IV, construction of an emissions source without a permit; Count V, operation of an emissions source without a permit; Count VII, installation of a non-solvent recovery dryer

and lack of a cartridge filter; and Count VIII, failure to perform an initial flow rate test on Dryer #2.

Complainant served Respondent with written discovery on April 11, 2003, including a First Request for Admission of Facts. Respondent subsequently served Plaintiff with responses to written discovery including Draw Drape Cleaners Response to First Request to Admit ("Response"). In the Response, Respondent admitted many facts pertinent to the alleged violations in the Complaint. The Response is attached hereto and incorporated herein as Exhibit B.

Respondent admitted that it failed to secure the required construction and operating permits for Dryer #2 at its facility. Respondent also admitted that Dryer #2 is not a solvent recovery dryer and that Dryer #2 lacks a cartridge filter. Furthermore, Respondent admitted that it failed to perform an initial flow rate test on Dryer #2. There are no material questions of fact or law with respect to Counts IV, V, VII, and VIII of the Complaint. Complainant is entitled to summary judgment on those Counts.

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when the pleadings, depositions, admissions on file, and affidavits disclose there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Dowd & Dowd, Ltd. v.

Gleason, 181 Ill.2d 460, 483, 693 N.E.2d 358, 370 (1998). Use of summary judgment procedure is to be encouraged as an aid in expeditious disposition of lawsuits; however, it is drastic means of disposing of litigation and should be allowed only when the right of the moving party is clear and free of doubt. Gilbert v. Sycamore Municipal Hospital, 156 Ill.2d 511, 518, 622 N.E.2d 788, 792 (1993). Although summary judgment is drastic, the instant case is tailor made for this type of disposition and resolution. Furthermore, using summary judgment as a means of finding Respondent liable for violations of the laws and regulations as alleged in Counts IV, V, VII, and VIII will limit the future proceedings by the Complainant against Respondent and will dispose of a portion of the lawsuit. Complainant's right to summary judgment on Counts IV, V, VII, and VIII is clear and free of doubt. This is an appropriate use of summary judgment.

ADMITTED BACKGROUND FACTS AND BACKGROUND LAW

At all times relevant to the complaint, Respondent was/is an Illinois corporation in good standing and was/is the operator of a petroleum solvent dry cleaning facility (facility) for cleaning drapes. Admitted by Respondent in Exhibit B - Response Nos. 1, 2, 3.

Respondent installed Dryer #2 at the facility in 1996 and operated Dryer #2 until sometime in 2001 or 2002. Respondent used Dryer #2 to dry clean drapes after it was installed. Dryer

#2 also lacks a cartridge filter. Dryer #2 emitted volatile organic material ("VOM", also known as volatile organic compounds) to the environment after it was installed until sometime in 2001 or 2002. Admitted by Respondent in Exhibit B - Response Nos. 6, 7, 8, 11.

Section 3.315 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/3.315 (2002), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

Respondent is a "person" as the term is defined in Section 3.315 of the Act.

ARGUMENT - COUNTS IV AND V

The Act and the Illinois Pollution Control Board ("Board") Air Pollution Regulations state that no person shall construct or operate an emissions source without first obtaining proper permits from the Illinois Environmental Protection Agency ("Agency"). Count IV of the Complaint alleges that Respondent constructed an emissions source without a permit while Count V of the Complaint alleges that Respondent operated an emissions source without a permit.

Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), provides as

follows:

No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), provides the following definition:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides the following definition:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

VOM is a contaminant, as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002). Dryer #2 is equipment that is capable of causing or contributing to air pollution since it is a source of VOM.

Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146.

Section 201.143 of the Board Air Pollution Regulations, 35

Ill. Adm. Code 201.143, provides, in pertinent part, as follows:

Operating Permit for New Sources

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit.

Section 201.102 of the Board Air Pollution Regulations, 35

Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

* * *

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

* * *

"Specified Air Contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated

Illinois pursuant to Section 9.1 of the Act.

VOM is a "specified air contaminant" as defined by Section 201.102 of the Board Air Pollution Regulations. Dryer #2 is a "new emission source" as that term is defined by Section 201.102 of the Board Air Pollution Regulations because it is capable of emitting VOM.

Respondent installed Dryer #2 at its facility without first obtaining a permit from the Agency. Admitted by Respondent in Exhibit B - Response No. 40. In addition, Respondent operated Dryer #2 without first obtaining a permit from the Agency. Admitted by Respondent in Exhibit B - Response No. 41. (Note that the year "2996" in Response No. 41 is obviously a typo and should be "1996" which is what the corresponding No. 41 is in the Complainant's First Request for Admission of Facts - See Exhibit C.)

Thus, Respondent violated Section 9(b) of the Act and Sections 201.142 and 201.143 of the Board Air Pollution Regulations as alleged in Counts IV and V of the Complaint. Summary judgment for Counts IV and V of the Complaint should be awarded to Complainant.

ARGUMENT - COUNTS VII AND VIII

The Act and the associated provisions in the Code of Federal Regulations state that petroleum dry cleaners may only use solvent recovery dryers with cartridge filters. In addition, the

dry cleaner must do an initial test on the dryer to verify flow rate of recovered solvent. Count VII of the Complaint alleges that Respondent did not install a solvent recovery dryer with a cartridge filter while Count VIII of the Complaint alleges that Respondent did not perform the initial test.

Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002), provides, in pertinent part, as follows:

No person shall:

- (1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or
- (2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken without a permit granted by the Agency or in violation of any conditions imposed by such permit.

Sections 60.620 to 60.625 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.620-60.625, were adopted pursuant to Section 111 of the Clean Air Act. Sections 60.620 to 60.625 of Title 40 of the Code of Federal Regulations set standards of performance for petroleum dry cleaners. Section 60.622 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.622, provides, in pertinent part, as follows:

Standards for volatile organic compounds

(a) Each affected petroleum solvent dry cleaning dryer that is installed at a petroleum dry cleaning plant after December 14, 1982, shall be a solvent recovery dryer. The solvent recovery dryer(s) shall be properly installed, operated and maintained.

(b) Each affected petroleum solvent filter that is installed at a petroleum dry cleaning plant after December 14, 1982, shall be a cartridge filter. Cartridge filters shall be drained in their sealed housings for at least 8 hours prior to their removal.

Respondent installed Dryer #2 in 1996, well after December 14, 1982. Dryer #2 is not a solvent recovery dryer, and it lacks a cartridge filter. Admitted by Respondent in Exhibit B - Response No. 17 and 19.

Section 60.624 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.624, provides, in pertinent part, as follows:

Test methods and procedures

Each owner or operator of an affected facility subject to the provisions of §60.622(a) shall perform an initial test to verify that the flow rate of recovered solvent from the solvent recovery dryer at the termination of the recovery cycle is no greater than 0.05 liters per minute. This test shall be conducted for a duration of no less than 2 weeks during which no less than 50 percent of the dryer loads shall be monitored for their final recovered solvent flow rate.

Respondent did not initially test Dryer #2 to verify the flow rate of recovered solvent after Dryer #2 was installed in

1996. Admitted by Respondent in Exhibit B - Response Nos. 45, 46, and 47.

In its Responses addressing the test for the verification of flow rate of recovered solvent in Dryer #2, Respondent claimed that there was no test available. Complainant assumes that Respondent is referring to a commercially available test or a test performed by a technical consultant for the verification of flow rate. The remainder of Section 60.624 of Title 40 of the Code of Federal Regulations spells out the manner in which the test is to be conducted:

The suggested point for measuring the flow rate of recovered solvent is the outlet of the solvent-water separator. Near the end of the recovery cycle, the entire flow of recovered solvent should be diverted to a graduated cylinder. As the recovered solvent collects in the graduated cylinder, the elapsed time is monitored and recorded in periods of greater than or equal to 1 minute. At the same time, the volume of solvent in the graduated cylinder is monitored and recorded to determine the volume of recovered solvent that is collected during each time period. The recovered solvent flow rate is calculated by dividing the volume of solvent collected per period by the length of time elapsed during the period and converting the result with appropriate factors into units of liters per minute. The recovery cycle and the monitoring procedure should continue until the flow rate of solvent is less than or equal to 0.05 liter per minute. The type of articles cleaned and the total length of the cycle should then be recorded.

Respondent would have only required a graduated cylinder, a

stopwatch, pen and paper, a knowledge of simple arithmetic, and time to measure every other dryer load for two weeks. Respondent cannot hide behind the excuse that a test was not available since Respondent's owners, operators, or employees could have easily performed this simple test.

For the sake of argument, even if the test was complicated, such circumstances would not excuse Respondent from performing the test. Respondent failed to perform the test by its own admission and thereby violated the Act and the Code of Federal Regulations.

Thus, Respondent violated Sections 60.622 and 60.624 of Title 40 of the Code of Federal Regulations and Section 9.1(d) of the Act as alleged in Counts VII and VIII of the Complaint. Summary judgment for Counts VII and VIII of the Complaint should be awarded to Complainant.

CONCLUSION

WHEREFORE, for the foregoing reasons, Complainant respectfully request the Board to:

1. Enter an order granting summary judgment for Complainant and against Respondent for Counts IV, V, VII, and VIII in the Complaint filed with the Board in this matter;

2. Order that Respondent is liable for penalties for violations of the Act, the Board Air Pollution Regulations, and the Code of Federal Regulations;

3. Assess the Attorney General's fees and costs in this case against Respondent; and
4. Order any other relief it deems just and appropriate.

Respectfully submitted,

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

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

By:



JOEL STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. 20th Fl.
Chicago, Illinois 60601
(312) 814-6986

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 15 2002

PEOPLE OF THE STATE OF ILLINOIS,
by JAMES E. RYAN, Attorney
General of the State of Illinois

Complainant,

v.

DRAW DRAPE CLEANERS, INC.,
an Illinois corporation,

Respondent.

STATE OF ILLINOIS
Pollution Control Board

No. PCB 03-51

Exhibit A

NOTICE OF FILING

TO: See Attached Service List

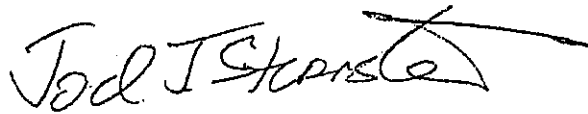
PLEASE TAKE NOTICE that on October 15, 2002, the People of the State of Illinois filed with the Illinois Pollution Control Board a Complaint, true and correct copies of which are attached and hereby served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

BY:


JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-6986

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 15 2002

PEOPLE OF THE STATE OF ILLINOIS,)
by JAMES E. RYAN, Attorney)
General of the State of Illinois)
Complainant,)
v.)
DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board

No. PCB 03-51

COMPLAINT FOR CIVIL PENALTIES

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, complains of Respondent, DRAW DRAPE CLEANERS, INC., as follows:

COUNT I

AIR POLLUTION

1. This Complaint is brought on behalf of the People ("Complainant") by the Attorney General on his own motion and upon the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2002).

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 (2002), and charged, *inter alia*, with the duty of enforcing the Act. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31(2002).

their legal representative, agent or assigns.

10. Respondent is a "person" as the term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides the following definition:

"Contaminant" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

12. VOM is a contaminant, as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

13. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), provides the following definition:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

14. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, so as to violate regulations or standards adopted by the Board under this Act;

15. Section 201.141 of the Illinois Pollution Control Board

the Act, 415 ILCS 5/9(a) (2002), and Section 201.141 of the Board Air Pollution Regulation, 35 Ill. Adm. Code 201.141;

3. Ordering Respondent to cease and desist from further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and Section 201.141 of the Board Air Pollution Regulation, 35 Ill. Adm. Code 201.141;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II

VIOLATION OF STANDARDS FOR PETROLEUM SOLVENT DRY CLEANERS

1 - 14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 13 of this Count II.

15. Section 218.607 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607, provides as follows:

and exposure to the atmosphere.

19. Neither Dryer #1 nor Dryer #2 have a cartridge filtration system.

20. Respondent, by its conduct as alleged herein, violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.607 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against Respondent, DRAW DRAPE CLEANERS, INC., on Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.607 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607;

3. Ordering Respondent to cease and desist from further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.607 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day

requirements of Section 218.607(b)(2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b)(2).

18. Respondent has failed to follow the methods described in EPA-450/3-82-009 (1982) in order to demonstrate compliance with Sections 218.607(a)(2) and 218.607(b)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607(a)(2) and (b)(1), for both Dryer #1 and Dryer #2.

19. Respondent, by its conduct as alleged herein, violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.610 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.610.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against Respondent, DRAW DRAPE CLEANERS, INC., on Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.610 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.610;

3. Ordering Respondent to cease and desist from further violations of Section 9(a) of the Act, 415 ILCS 5/9(a)(2002), and Section 218.610 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.610;

("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, the following definitions:

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

"Specified Air Contaminant": any air contaminant as to which this Subtitle contains emission standards or other specific limitations and any contaminant regulated Illinois pursuant to Section 9.1 of the Act.

15. VOM is a specified air contaminant as defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102.

16. Dryer #2 is a "new emission source" as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102 because it is capable of emitting VOM.

17. Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

Section 201.142 Construction Permit Required

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146.

18. Respondent installed Dryer #2 at its facility without

42(f) of the Act, including attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT V

OPERATION OF AN EMISSIONS SOURCE WITHOUT A PERMIT

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count IV as paragraphs 1 through 16 of this Count V.

17. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides, in pertinent part, as follows:

Operating Permit for New Sources

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit.

18. Since 1996, Respondent has operated and continues to operate Dryer #2 without first obtaining a permit from the Illinois EPA.

19. Respondent, by its conduct as alleged herein, violated Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, and Section 9(b) of the Act, 415 ILCS 5/9(b) (2002).

COUNT VI

VIOLATION OF FESOP CONDITION 5

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count IV as paragraphs 1 through 14 of this Count VI.

15. Respondent was granted a FESOP to operate its emissions sources. The FESOP was granted on January 13, 1998 and expires on January 13, 2003.

16. Respondent's FESOP, No. 95100005, provides, in pertinent part, the following condition:

* * *

5. The Permittee shall comply with the standards, operating practices, inspections and repair of leaks, and the testing and monitoring requirements for petroleum solvent dry cleaners as specified in 35 Ill. Adm. Code 218.607 through 218.610.

17. By violating the Board Air Pollution Regulations at Sections 218.607 and 218.610, 35 Ill. Adm. Code 218.607 and 218.610, Respondent also violated Condition No. 5 of its FESOP No. 95100005. By violating Condition No. 5 of its FESOP No. 95100005, Respondent also violated 9(b) of the Act, 415 ILCS 5/9(b) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against Respondent, DRAW DRAPE CLEANERS, INC., on

11. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002), provides, in pertinent part, as follows:

No person shall:

(1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or

(2) construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken without a permit granted by the Agency or in violation of any conditions imposed by such permit.

12. Sections 60.620 to 60.625 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.620-60.625, were adopted pursuant to Section 111 of the Clean Air Act.

13. Sections 60.620 to 60.625 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.620-60.625, set standards of performance for petroleum dry cleaners.

14. Section 60.622 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.622 provides, in pertinent part, as follows:

Standards for volatile organic compounds

(a) Each affected petroleum solvent dry cleaning dryer that is installed at a petroleum dry cleaning plant after December 14, 1982, shall be a solvent recovery dryer. The solvent recovery dryer(s) shall be

Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent Board Air Pollution Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VIII

FAILURE TO PERFORM AN INITIAL FLOW RATE TEST ON DRYER #2

1 - 15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count VII as paragraphs 1 through 16 of this Count VIII.

16. Section 60.624 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.624, provides, in pertinent part, as follows:

Test methods and procedures

Each owner or operator of an affected facility subject to the provisions of §60.622(a) shall perform an initial test to verify that the flow rate of recovered solvent from the solvent recovery dryer at the termination of the recovery cycle is no greater than 0.05 liters per minute. This test shall be conducted for a duration of no less than 2 weeks during which no less than 50 percent of the dryer loads shall be monitored for their final recovered solvent flow rate.

of violation;

5. Taxing all costs in this action pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN, Attorney
General of the State of Illinois

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

By: 

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601
(312) 814-6986

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CERTIFICATE OF SERVICE

I, JOEL J. STERNSTEIN, an Assistant Attorney General, certify that on the 15th day of October, 2002, I caused to be served by First Class Mail the foregoing Complaint to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

A handwritten signature in cursive script, reading "Joel J. Sternstein", written in dark ink. The signature is fluid and stylized, with a long horizontal stroke extending from the end of the name.

JOEL J. STERNSTEIN

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)
)
Complainant,)
)
DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
)
Respondent.)

No. PCB 03-51
(Enforcement - Air)

Exhibit B

**DRAW DRAPE CLEANERS' RESPONSE
TO FIRST REQUEST TO ADMIT**

To: Ms. Maureen Wozniak, Esq.
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702
Telephone: (217)-782-5544
Fax: (217) 782-9807

Joel J. Sternstein
Assistant Attorney General
Environmental Bureau
188 W. Randolph St.
20th Floor
Chicago, Illinois 60601
Telephone: (312)-814-6986
Fax: (312) 814-2347

Respondent Draw Drape Cleaners, Inc. (collectively "Respondent"), by their attorneys, Weissberg and Associates, Ltd., respond to Complainant's First Request for Admission of Facts on Respondent Draw Drape Cleaners, Inc. ("Requests"), and states:

1. Please admit that at all times relevant to the Complaint, Respondent was and is an Illinois corporation duly organized and existing under the laws of the State of Illinois and is in good standing.

RESPONSE: Admit

2. Please admit that at all times relevant to the Complaint, Respondent has operated the facility.

RESPONSE: Admit

3. Please admit that Respondent operates a petroleum solvent dry cleaning operation at its facility to clean drapes.

RESPONSE: Admit

4. Please admit that Respondent installed Dryer #1 at the facility sometime prior to 1981 and continues to operate Dryer #1.

RESPONSE: Admit

5. Please admit that Dryer #1 emitted VOM into the air from the time that it was installed until the present.

RESPONSE: Admit

6. Please admit that Respondent installed Dryer #2 at the facility in 1996 and continues to operate Dryer #2.

RESPONSE: Respondent admits they operated Dryer #2 until the IPA Inspector told Respondent that Dryer #2 was in violation, Respondent denies that they continue to operate Dryer #2.

7. Please admit that Dryer #2 emitted VOM after it was installed until sometime in 2001 or 2002.

RESPONSE: Admit

8. Please admit that Dryer #2 was used to dry clean drapes from the time it was installed until sometime in 2001 or 2002.

RESPONSE: Respondents admits Dryer #2 was used occasionally to dry clean drapes but states it was mainly used to fluff materials before pressing.

9. Please admit that Dryer #2 has only been used for "fluffing" drapes since sometime in 2001 or 2002.

RESPONSE: Admit

10. Please admit that Dryer #1 is a petroleum solvent dryer.

RESPONSE: Admit

11. Please admit that Dryer #2 is a petroleum solvent dryer.

RESPONSE: Admit

12. Please admit that Respondent uses naptha as a solvent in its dry cleaning operations in Dryer #1.

RESPONSE: Admit

13. Please admit that Respondent used naptha as a solvent in its dry cleaning operations in Dryer #2 at those times when it performed dry cleaning operations in Dryer #2.

RESPONSE: Admits that naptha was used occasionally in Dryer #2

14. Please admit that vapors from Dryer #1 have never been recovered.

RESPONSE: Admit

15. Please admit that vapors from Dryer #2 have never been recovered.

RESPONSE: Admit

16. Please admit that Dryer #1 is not a solvent recovery dryer.

RESPONSE: Admit

17. Please admit that Dryer #2 is not a solvent recovery dryer.

RESPONSE: Admit

18. Please admit that Dryer #1 lacks a cartridge filter.

RESPONSE: Admit

19. Please admit that Dryer #2 lacks a cartridge filter.

RESPONSE: Admit

20. Please admit that an Illinois EPA inspector was at the facility on January 17, 2001.

RESPONSE: Admit

21. Please admit that an Illinois EPA inspector was at the facility on March 29, 2001.

RESPONSE: Respondent neither admits nor denies the allegations in ¶ 21 due to lack of knowledge.

22. Please admit that the current registered agent for Draw Drape is Richard J. Zell.

RESPONSE: Admit

23. Please admit that the current president of Draw Drape is Steven M. Press.

RESPONSE: Admit

24. Please admit that Steven M. Press owns 50% of the Roscoe Street Partnership.

RESPONSE: Admit

25. Please admit that Richard J. Zell owns 50% of the Roscoe Street partnership.

RESPONSE: Admit

26. Please admit that Steven M. Press owns 50% of the Illinois corporation "American Drapery Cleaners and Flameproofers, Inc."

RESPONSE: Admit

27. Please admit that Richard J. Zell owns 50% of the Illinois corporation "American Drapery Cleaners and Flameproofers, Inc."

RESPONSE: Admit

28. Please admit that in June 2001, Richard J. Zell of Draw Drape, Inc. received a Violation Notice letter from Illinois EPA.

RESPONSE: Admit

29. Please admit that said Violation Notice letter from Illinois EPA was numbered A 2001 00103.

RESPONSE: Respondent neither admits nor denies the allegations in ¶29 due to lack of knowledge.

30. Please admit that neither Richard J. Zell nor any other person representing Draw Drape, Inc. responded to the June 2001 Illinois EPA Violation Notice letter within 45 days of receipt of the Violation Notice letter.

RESPONSE: Denied

31. Please admit that for Dryer #1 Respondent has failed to limit VOM emissions to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight articles cleaned.

RESPONSE: Denied

32. Please admit that for Dryer #2, Respondent failed to limit VOM emissions to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight articles cleaned between the installation of Dryer #2 and the time at which dry cleaning operations ceased in 2001 or 2002.

RESPONSE: Denied

33. Please admit that for Dryer 3 Respondent has failed to reduce VOM content in all filtration wastes to 1.0 kilogram or less per 100 kilograms of articles dry cleaned, before disposal and exposure to the atmosphere.

RESPONSE: Denied

34. Please admit that for Dryer #2, between the installation of Dryer #2 in 1996 and the time that dry cleaning operations were stopped in 2001 or 2002, Respondent has failed to reduce VOM content in all filtration wastes to 1.0 kilogram or less per 100 kilograms of articles dry cleaned, before disposal and exposure to the atmosphere.

RESPONSE: Denied

35. Please admit that Respondent failed to visually inspect Dryer #1 in order to demonstrate compliance with the requirements of Section 218.607(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b)(2).

RESPONSE: Denied

36. Please admit that Respondent failed to visually inspect Dryer #2 in order to demonstrate compliance with the requirements of Section 218.607(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b)(2).

RESPONSE: Denied

37. Please admit that Respondent failed to follow the methods described in EPA-450/3-82-009 (1982) in order to demonstrate compliance with Sections 218.607(a)(2) and 218.607(b)(1) of the 218.607(a)(2) and (b) (1), for Dryer #1.

RESPONSE: Denied

38. Please admit that Respondent has failed to follow the methods described in EPA-450/3-82-009 (1982) in order to demonstrate compliance with Sections 218.607(a) (2) and 218.607(b) (1) of the board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(a) (2) and (b) (1), for Dryer #2.

RESPONSE: Denied

39. Please admit that Dryer #2 is a "new emission source" as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, because it is capable of emitting VOM.

RESPONSE: Denied

40. Please admit that Respondent installed Dryer #2 at its facility without first obtaining a permit from the Illinois EPA.

RESPONSE: Admit

41. Please admit that since 1996, Respondent has operated and continues to operate Dryer #2 at its facility without a permit from the Illinois EPA.

RESPONSE: Admit

42. Please admit that Respondent was granted a FESOP to operate its emissions sources at its facility.

RESPONSE: Admit

43. Please admit that said FESOP was granted on January 13, 1998 and expired on January 13, 2003.

RESPONSE: Denied

44. Please admit that Respondent's FESOP No. 95100005, provided, in pertinent part, the following condition:

RESPONSE: Respondent neither admits nor denies the allegations in ¶44 as the FESOP speaks for itself.

45. Please admit that Respondent did not perform an initial test on Dryer #2 to verify that the flow rate of recovered solvent from Dryer #2 was no greater than .05 liters per minute.

RESPONSE: Admits but states there is no test available.

46. Please admit that Respondent did not perform said initial test for a duration of at least 2 weeks.

RESPONSE: Admits but states there is no test available.

47. Please admit that Respondent did not perform said initial test on Dryer #2 for at least 50 percent of the dryer loads during said 2 weeks and did not monitor those loads for their final recovered solvent flow rate.

RESPONSE: Admits but states there is no test available.

DRAW DRAPE CLEANERS, INC., an
Illinois corporation

By: Michele Rocawich
One of their attorneys

Ariel Weissberg, Esq.
John H. Redfield, Esq.
Michele Mary Rocawich, Esq.
Weissberg and Associates, Ltd.
401 S. LaSalle St., Suite 403
Chicago, IL 60605
312/663-0004
FAX: 312/663-1514

CERTIFICATE OF SERVICE

I, Michele Rocawich, certify that on April 30, 2003, we served this Draw Drape Cleaners Response to Request to Admit on the above-named counsels by regular mail.

Michele Rocawich
Michele Rocawich

COUNTY OF COOK)
)
STATE OF ILLINOIS) SS

VERIFICATION

I, Richard Zell, being duly sworn, state I have read DRAW DRAPE CLEANERS' RESPONSE TO FIRST REQUEST TO ADMIT and all the statements in this Response are true and correct to the best of my knowledge and belief.



RICHARD ZELL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) No. PCB 03-51
) (Enforcement - Air)
DRAW DRAPE CLEANERS, INC.,)
an Illinois corporation,)
)
Respondent.)

Exhibit C

COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS
ON RESPONDENT DRAW DRAPE CLEANERS, INC.

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 101.616 of the Illinois Pollution Control Board's Procedural Regulations and Illinois Supreme Court Rule 216, hereby serves the following First Request for Admission of Facts upon Respondent DRAW DRAPE CLEANERS, INC., to admit the truth of the following facts in writing within 28 days from the date of service hereof.

INSTRUCTIONS AND DEFINITIONS

1. With respect to any requested admission which Respondent refuses to answer because of a claim of privilege, provide a statement signed by an attorney representing Respondent setting forth as to each:

- a. the nature of the claim of privilege;
- b. the statute, rule or decision which is claimed to give rise to the claim of privilege;
- c. all facts relied upon in support of the claim of privilege;
- d. an identification of all documents related to the claim of privilege;
- e. an identification of all persons having knowledge of any facts related to the claim of privilege;

- and
- f. an identification of all events, transactions or occurrences related to the claim of privilege.

2. For all requested admissions which Respondent denies or which Respondent can neither admit nor deny, pursuant to Illinois Supreme Court Rule 216(c), Respondent is required to provide Plaintiff with a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why Respondent cannot truthfully admit or deny those matters.

3. "Complaint" shall mean the Complaint for Civil Penalties filed in this case by Plaintiff on October 15, 2002.

4. "Plaintiff" shall mean the Plaintiff listed in the complaint and any of his agents, representatives, or persons who acted as Plaintiff's representative.

5. "Respondent" shall refer to Draw Drape Cleaners, Inc., and the agents, employees, representatives or any other person or persons acting for or in concert with Draw Drape Cleaners, Inc..

6. "Facility" shall mean the property located 2235-2239 West Roscoe Street, Chicago, Cook County, Illinois, 60618 as referenced in paragraph 4 Count I of the complaint.

7. "Act" shall mean the Illinois Environmental Protection Act, 415 ILCS 5/1 et. seq. (2002).

8. "Own" means have good legal title to, hold as property, possess.

9. "Operate" means use, exercise control over, or having responsibility for the daily operation of.

10. "Entity" means a corporation, an incorporated business, or a limited liability company.

11. "Current" or "Present" means the filing date of this First Request for Admissions of Facts.

12. "Illinois EPA" means the Illinois Environmental Protection Agency.

13. "Board" shall mean the Illinois Pollution Control Board.

14. "Person" shall include, but is not limited to, any natural person; business or corporation, whether for profit or not; firm, partnership, or other non-corporate business organization; charitable, religious, education, governmental, or other non-profit institution, foundation, body, or other organization; or employee, agent, or representative of any of the foregoing.

15. "Or" shall mean and/or wherever appropriate.

16. "FESOP" shall mean Federally Enforceable State Operating Permit.

17. "VOM" shall mean volatile organic material or volatile organic compound.

18. "Dryer #1" shall mean the Dryer installed at the facility prior to 1981 that is still in operation at the facility.

19. "Dryer #2" shall mean the Dryer installed at the facility in 1996.

20. All terms not specifically defined herein shall have their logical ordinary meaning, unless such terms are defined in the Act or the regulations promulgated thereunder, in which case the appropriate or regulatory definitions shall apply.

FACTS

Request No. 1

Please admit that at all times relevant to the Complaint, Respondent was and is an Illinois corporation duly organized and existing under the laws of the State of Illinois and is in good standing.

Response:

Request No. 2

Please admit that at all times relevant to the Complaint, Respondent has operated the facility.

Response:

Request No. 3

Please admit that Respondent operates a petroleum solvent dry cleaning operation at its facility to clean drapes.

Response:

Request No. 4

Please admit that Respondent installed Dryer #1 at the facility sometime prior to 1981 and continues to operate Dryer #1.

Response:

Request No. 5

Please admit that Dryer #1 emitted VOM into the air from the time that it was installed until the present.

Response:

Request No. 6

Please admit that Respondent installed Dryer #2 at the facility in 1996 and continues to operate Dryer #2.

Response:

Request No. 7

Please admit that Dryer #2 emitted VOM after it was installed until sometime in 2001 or 2002.

Response:

Request No. 8

Please admit that Dryer #2 was used to dry clean drapes from the time it was installed until sometime in 2001 or 2002.

Response:

Request No. 9

Please admit that Dryer #2 has only been used for "fluffing" drapes since sometime in 2001 or 2002.

Response:

Request No. 10

Please admit that Dryer #1 is a petroleum solvent dryer.

Response:

Request No. 11

Please admit that Dryer #2 is a petroleum solvent dryer.

Response:

Request No. 12

Please admit that Respondent uses naptha as a solvent in its dry cleaning operations in Dryer #1.

Response:

Request No. 13

Please admit that Respondent used naptha as a solvent in its dry cleaning operations in Dryer #2 at those times when it performed dry cleaning operations in Dryer #2.

Response:

Request No. 14

Please admit that vapors from Dryer #1 have never been recovered.

Response:

Request No. 15

Please admit that vapors from Dryer #2 have never been recovered.

Response:

Request No. 16

Please admit that Dryer #1 is not a solvent recovery dryer.

Response:

Request No. 17

Please admit that Dryer #2 is not a solvent recovery dryer.

Response:

Request No. 18

Please admit that Dryer #1 lacks a cartridge filter.

Response:

Request No. 19

Please admit that Dryer #2 lacks a cartridge filter.

Response:

Request No. 20

Please admit that an Illinois EPA inspector was at the facility on January 17, 2001.

Response:

Request No. 21

Please admit that an Illinois EPA inspector was at the facility on March 29, 2001.

Response:

Request No. 22

Please admit that the current registered agent for Draw Drape is Richard J. Zell.

Response:

Request No. 23

Please admit that the current president of Draw Drape is Steven M. Press.

Response:

Request No. 24

Please admit that Steven M. Press owns 50% of the Roscoe Street Partnership.

Response:

Request No. 25

Please admit that Richard J. Zell owns 50% of the Roscoe Street Partnership.

Response:

Request No. 26

Please admit that Steven M. Press owns 50% of the Illinois corporation "American Drapery Cleaners and Flameproofers, Inc."

Response:

Request No. 27

Please admit that Richard J. Zell owns 50% of the Illinois corporation "American Drapery Cleaners and Flameproofers, Inc."

Response:

Request No. 28

Please admit that in June 2001, Richard J. Zell of Draw Drape, Inc. received a Violation Notice letter from Illinois EPA

Response:

Request No. 29

Please admit that said Violation Notice letter from Illinois EPA was numbered A 2001 00103.

Response:

Request No. 30

Please admit that neither Richard J. Zell nor any other person representing Draw Drape, Inc. responded to the June 2001 Illinois EPA Violation Notice letter within 45 days of receipt of the Violation Notice letter.

Response:

Request No. 31

Please admit that for Dryer #1 Respondent has failed to limit VOM emissions to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight articles cleaned.

Response:

Request No. 32

Please admit that for Dryer #2, Respondent failed to limit VOM emissions to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight articles cleaned between the installation of Dryer #2 and the time at which dry cleaning operations ceased in 2001 or 2002.

Response:

Request No. 33

Please admit that for Dryer #1 Respondent has failed to reduce VOM content in all filtration wastes to 1.0 kilogram or less per 100 kilograms of articles dry cleaned, before disposal and exposure to the atmosphere.

Response:

Request No. 34

Please admit that for Dryer #2, between the installation of Dryer #2 in 1996 and the time that dry cleaning operations were stopped in 2001 or 2002, Respondent has failed to reduce VOM content in all filtration wastes to 1.0 kilogram or less per 100 kilograms of articles dry cleaned, before disposal and exposure to the atmosphere.

Response:

Request No. 35

Please admit that Respondent failed to visually inspect Dryer #1 in order to demonstrate compliance with the requirements of Section 218.607(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b)(2).

Response:

Request No. 36

Please admit that Respondent failed to visually inspect Dryer #2 in order to demonstrate compliance with the requirements of Section 218.607(b)(2) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b)(2).

Response:

Request No. 37

Please admit that Respondent failed to follow the methods described in EPA-450/3-82-009 (1982) in order to demonstrate compliance with Sections 218.607(a)(2) and 218.607(b)(1) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(a)(2) and (b)(1), for Dryer #1.

Response:

Request No. 38

Please admit that Respondent has failed to follow the methods described in EPA-450/3-82-009 (1982) in order to demonstrate compliance with Sections 218.607(a)(2) and 218.607(b)(1) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.607(a)(2) and (b)(1), for Dryer #2.

Response:

Request No. 39

Please admit that Dryer #2 is a "new emission source" as that term is defined by Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.102, because it is capable of emitting VOM.

Response:

Request No. 40

Please admit that Respondent installed Dryer #2 at its facility without first obtaining a permit from the Illinois EPA.

Response:

Request No. 41

Please admit that since 1996, Respondent has operated and

continues to operate Dryer #2 at its facility without a permit from the Illinois EPA.

Response:

Request No. 42

Please admit that Respondent was granted a FESOP to operate its emissions sources at its facility.

Response:

Request No. 43

Please admit that said FESOP was granted on January 13, 1998 and expired on January 13, 2003.

Response:

Request No. 44

Please admit that Respondent's FESOP No. 95100005, provided, in pertinent part, the following condition:

5. The Permittee shall comply with the standards, operating practices, inspections and repair of leaks, and the testing and monitoring requirements for petroleum solvent dry cleaners as specified in 35 Ill. Adm. Code 218.607 through 218.610.

Response:

Request No. 45

Please admit that Respondent did not perform an initial test on Dryer #2 to verify that the flow rate of recovered solvent from Dryer #2 was no greater than .05 liters per minute.

Response:

Request No. 46

Please admit that Respondent did not perform said initial test for a duration of at least 2 weeks.

Response:

Request No. 47

Please admit that Respondent did not perform said initial test on Dryer #2 for at least 50 percent of the dryer loads during said 2 weeks and did not monitor those loads for their final recovered solvent flow rate.

Response:

Respectfully submitted,

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

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

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

By:

JOEL J. STERNSTEIN
Assistant Attorney General
Environmental Bureau
188 W. Randolph St. 20th Fl.
Chicago, Illinois 60601
(312) 814-6986

CERTIFICATE OF SERVICE

I, JOEL J. STERNSTEIN, an Assistant Attorney General, certify that on the 11th day of April, 2003, I caused to be served by First Class Mail the foregoing COMPLAINANT'S FIRST REQUEST FOR ADMISSION OF FACTS ON RESPONDENT DRAW DRAPE CLEANERS, INC. to the parties named on the attached service list, by depositing same in postage prepaid envelopes with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois 60601.

A handwritten signature in cursive script, reading "Joel J. Sternstein", written in dark ink.

JOEL J. STERNSTEIN

SERVICE LIST

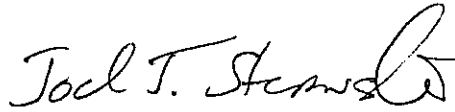
Ms. Maureen Wozniak, Esq.
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62702

Ms. Michele Rocawich, Esq.
Weissberg and Associates, Ltd.
401 S. LaSalle Street, Suite 403
Chicago, Illinois 60605



CERTIFICATE OF SERVICE

I, JOEL J. STERNSTEIN, an Assistant Attorney General, do certify that I caused to be mailed this 27th day of June, 2003, the foregoing Plaintiff's Motion for Partial Summary Judgment by first-class mail in a postage prepaid envelope and depositing same with the United States Postal Service located in Chicago, Illinois.

A handwritten signature in cursive script, reading "Joel J. Sternstein", written in dark ink.

JOEL J. STERNSTEIN