

RECEIVED
CLERK'S OFFICE

MAR - 2 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS

Complainant,

v.

DRAW DRAPE CLEANERS, INC., an
Illinois corporation,

Respondent.

Case No. PCB 03-51
(Enforcement – Air)

NOTICE OF FILING

To: Joel J. Sternstein, Esq.
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, IL 60601
FAX: (312) 814-2347

Maureen Wozniak, Esq.
Illinois Environmental Protection
Agency
1021 N. Grand Avenue, East
P.O. Box 19276
Springfield, IL 62702
FAX: (815) 782-9807

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601
FAX: (312) 814-3669

On March 2, 2004, we filed with the Clerk of the Illinois Pollution Control Board, James R. Thompson Center, 100 W. Randolph, Suite 11-500, Chicago, Illinois 60601,
RESPONDENTS' ANSWER TO AMENDED COMPLAINT FOR CIVIL PENALTIES, a
copy of which is served on you.

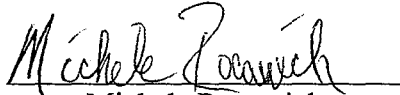
DRAW DRAPE CLEANERS, INC., an Illinois
corporation

By: Michele Rocawich
One of their attorneys

Ariel Weissberg, Esq.
John H. Redfield, Esq.
Michele Rocawich, Esq.
Weissberg and Associates, Ltd.
401 S. LaSalle St., Suite 403
Chicago, IL 60605
Attorney No. 03125591
312-663-0004

CERTIFICATE OF SERVICE

I, Michele Rocawich, certify that on March 2, 2004, Respondents' Answer to Amended Complaint for Civil Penalties was served on the foregoing parties by facsimile and first class mail.


Michele Rocawich

MAR - 2 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,	)	
by LISA MADIGAN, Attorney	)	
General of the State of Illinois	)	Case No. PCB 03-51
	)	
Complainant,	)	
v.	)	
	)	
	)	
DRAW DRAPE CLEANERS, INC.,	)	
an Illinois corporation, AMERICAN	)	
DRAPERY CLEANERS & FLAMEPROOFERS,	)	
INC., an Illinois corporation, and RICHARD	)	
ZELL, an Illinois resident,	)	
	)	
Respondents.	)	

**RESPONDENTS' ANSWER TO AMENDED
COMPLAINT FOR CIVIL PENALTIES**

Respondents Draw Drape Cleaners, Inc., American Drapery Cleaners & Flameproofers, Inc. and Richard Zell (collectively "Respondents"), by their attorneys, WEISSBERG AND ASSOCIATES, LTD., respond to the Amended Complaint for Civil Penalties ("Complaint") and state as follows:

**COUNT I
AIR POLLUTION**

1. This Complaint is brought on behalf of the People ("Complainant") by the Attorney General on her 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).

ANSWER: Respondents neither admit nor deny the allegations of paragraph 1 of the Complaint and state the Complaint speaks for itself.

2. Specifically, this Complaint is brought against Respondent DRAW DRAPE CLEANERS, INC. ("DDCI") pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002). This Complaint is brought against Respondents AMERICAN DRAPERY CLEANERS & FLAMEPROOFERS, INC. ("ADC&FI") and RICHARD ZELL by the Attorney General on her own motion.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 3 of the Complaint and state the Act speaks for itself.

3. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 3 of the Complaint and state the Act speaks for itself.

4. At all times relevant to this Complaint, Respondent DDCI was and is an Illinois corporation duly organized and existing under the laws of the State of Illinois and is in good standing.

ANSWER: Respondents admit the allegations of paragraph 4 of the Complaint.

5. At all times relevant to this Complaint, Respondent ADC&FI was and is an Illinois corporation duly organized and existing under the laws of the State of Illinois and is in good standing.

ANSWER: Respondents admit the allegations of paragraph 5 of the Complaint.

6. At all times relevant to this Complaint, Respondent RICHARD ZELL was and is a resident of the State of Illinois.

ANSWER: Respondents admit the allegations of paragraph 6 of the Complaint.

7. Respondents operate a facility located at 2235-2239 West Roscoe Street, Chicago, Cook County, Illinois, 60618 ("facility").

ANSWER: Respondents admit the allegations of paragraph 7 of the Complaint.

8. Respondents operate a petroleum solvent dry cleaning operation at the facility to clean drapes.

ANSWER: Respondents admit the allegations of paragraph 8 of the Complaint.

9. Respondent RICHARD ZELL is the operator and manager of both DDCI and ACDAFI. RICHARD ZELL is responsible for the day-to-day operations of both DDCI and ACDAFI. RICHARD ZELL is the registered agent for DDCI and the corporate secretary for ACDAFI.

ANSWER: Respondents admit the allegations of paragraph 9 of the Complaint.

10. Respondents installed Dryer #1 at its facility in 1980 and continue to operate Dryer #1. Dryer #1 is a petroleum solvent dryer, but it is not a solvent recovery dryer. Dryer #1 lacks a cartridge filter.

ANSWER: Respondents admit the allegations of paragraph 10 of the Complaint.

11. Respondents installed Dryer #2 at the facility in 1996 and continue to operate Dryer #2. Dryer #2 is a petroleum solvent dryer, but it is not a solvent recovery dryer. Dryer #2 lacks a cartridge filter.

ANSWER: Respondents admit the allegations of paragraph 11 of the Complaint.

12. Both Dryer #1 and Dryer #2 emit volatile organic material ("VOM") to the environment.

ANSWER: Respondents admit the allegations of paragraph 12 of the Complaint.

13. Section 3.315 of the 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 13 of the Complaint and state the Act speaks for itself.

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

ANSWER: Respondents neither admit nor deny the allegations of paragraph 14 of the Complaint and state the Act speaks for itself.

15. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 15 of the Complaint and state the Act speaks for itself.

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

ANSWER: Respondents neither admit nor deny the allegations of paragraph 16 of the Complaint and state the Act speaks for itself.

17. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 17 of the Complaint and state the Act speaks for itself.

18. 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;

ANSWER: Respondents neither admit nor deny the allegations of paragraph 18 of the Complaint and state the Act speaks for itself.

19. Section 201.141 of the Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

Section 201.141 Prohibition of Air Pollution

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 19 of the Complaint and state the Regulations speak for themselves.

20. Respondents have emitted VOM into the atmosphere from Dryer #1 and Dryer #2 causing air pollution in violation of the Federally Enforceable State Operating Permit ("FESOP"), in violation of the Act, and in violation of the Board's regulations.

ANSWER: Respondents deny the allegations of paragraph 20 of the Complaint.

21. Respondents, by their conduct alleged herein, violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

ANSWER: Respondents deny the allegations of paragraph 21 of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

COUNT II
VIOLATION OF STANDARDS FOR PETROLEUM
SOLVENT DRY CLEANERS

1 - 18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

ANSWER: Respondents restate their responses to paragraphs 1 though 18 of the Complaint as though fully stated here.

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

Standards for Petroleum Solvent Dry Cleaners

- a) The owner or operator of a petroleum solvent dry cleaning dryer shall either:
 - 1. Limit emissions of VOM to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight of articles dry cleaned, or
 - 2. Install and operate a solvent recovery dryer in a manner such that the dryer remains closed and the recovery phase continues until a final solvent flow rate of 50 milliliters per minute is attained.
- b) The owner or operator of a petroleum solvent filtration system shall either:
 - 1. Reduce the VOM content in all filtration wastes to 1.0 kilogram or less per 100 kilograms dry weight of articles dry cleaned, before disposal, and exposure to the atmosphere, or

- 2) Install and operate a cartridge filtration system, and drain the filter cartridges in their sealed housings for 8 hours or more before their removal.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 19 of Count II of the Complaint and state the Regulations speak for themselves

20. For both Dryer #1 and Dryer #2, Respondents have failed to limit VOM emissions to the atmosphere to an average of 3.5 kilograms of VOM per 100 kilograms dry weight articles cleaned.

ANSWER: Respondents deny the allegations of paragraph 20 of Count II of the Complaint.

21. Neither Dryer #1 nor Dryer #2 are solvent recovery dryers.

ANSWER: Respondents admit the allegations of paragraph 21 of Count II of the Complaint.

22. For both Dryer #1 and Dryer #2, Respondents have 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.

ANSWER: Respondents deny the allegations of paragraph 22 of Count II of the Complaint

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

ANSWER: Respondents admit the allegations of paragraph 23 of Count II of the Complaint.

24. Respondents₁ by their 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.

ANSWER: Respondents deny the allegations of paragraph 24 of Count II of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

COUNT III
FAILURE TO CONDUCT ADEQUATE TESTING

1 -18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count III.

ANSWER: Respondents restate their responses to paragraphs 1 though 18 of the Complaint as though fully stated here.

19. Section 218.610 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.610, provides as follows:

Testing and Monitoring

- a) Compliance with Sections 218.607(b) (2), 218.608 and 218.609 of this Part shall be determined by visual inspection; and
- b) Compliance with Sections 218.607 (a) (2) and (b) (1) of this Part shall be determined by methods described in EPA-450/3--82-009 (1982) incorporated by reference in Section 218.112 of this Part.

20. Section 218.607 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607, sets standards for petroleum solvent dry cleaning operations.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 19 of Count III of the Complaint and state the Regulations speak for themselves.

21. Respondents have failed to visually inspect both Dryer #1 and Dryer #2 in order to demonstrate compliance with the requirements of Section 218.607(b) (2) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.607(b) (2).

ANSWER: Respondents nor deny the allegations of paragraph 21 of Count III of the Complaint

22. Respondents have 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.

ANSWER: Respondents deny the allegations of paragraph 22 of Count III of the Complaint

23. Respondents, by their 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.

ANSWER: Respondents deny the allegations of paragraph 23 of Count III of the Complaint

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN

DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

COUNT IV
CONSTRUCTION OF AN EMISSIONS SOURCE WITHOUT A PERMIT

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

ANSWER: Respondents restate their responses to paragraphs 1 through 16 of the Complaint as though fully stated here.

17. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 17 of Count IV of the Complaint and state the Act speaks for itself.

18. Section 201.102 of the Illinois Pollution Control Board ("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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 18 of Count IV of the Complaint and state the Regulations speak for themselves

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

ANSWER: Respondents neither admit nor deny the allegations of paragraph 19 of Count IV of the Complaint and state the Regulations speak for themselves.

20. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 20 of Count IV of the Complaint and state the Regulations speak for themselves.

21. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 21 of Count IV of the Complaint and state the Regulations speak for themselves.

22. Respondents installed Dryer #2 at the facility without first obtaining a permit from the Illinois EPA.

ANSWER: Respondents admit the allegations of paragraph 22 of Count IV of the Complaint.

23. Respondents, by their conduct as alleged herein, violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

ANSWER: Respondents deny the allegations of paragraph 23 of Count IV of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

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.

ANSWER: Respondents restate their responses to paragraphs 1 through 16 of the Complaint as though fully stated here.

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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 17 of Count V of the Complaint and state the Regulations speak for themselves.

18. Since 1996, Respondents have operated and continue to operate Dryer #2 without first obtaining a permit from the Illinois EPA.

ANSWER: Respondents admit the allegations of paragraph 18 of Count V of the Complaint.

19. Respondents, by their 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).

ANSWER: Respondents denies the allegations of paragraph 19 of Count V of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

COUNT VI
VIOLATION OF FESOP CONDITION 5

1-15. Complainant realleges and incorporates by-reference herein paragraphs 1 through 4, 7 through B, and 10 through 16 of Count I and paragraphs 17 and 18 of Count IV as paragraphs 1 through 15 of this Count VI.

ANSWER: Respondents restate their responses to paragraphs 1 through 4, 7 through B, and 10 through 16 of Count I and paragraphs 17 and 18 of Count IV as paragraphs 1 through 15 of this Count VI as though fully stated here.

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

ANSWER: Respondents admit the allegations of paragraph 16 of Count VI of the Complaint.

17. Respondent DDCI'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.

ANSWER: Respondents neither admits nor denies the allegations of paragraph 18 of Count VI of the Complaint and states the FESOP speaks for itself.

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

ANSWER: Respondents denies the allegations of paragraph 18 of Count VI of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

COUNT VII
INSTALLATION OF A NON-SOLVENT RECOVERY DRYER
AND LACK OF A CARTRIDGE-FILTER ON DRYER #2

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

ANSWER: Respondents restate their responses to paragraphs 1 through 14 of the Complaint as

though fully stated here.

15. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 15 of Count VII of the Complaint and state the Act speaks for itself.

16. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 16 of Count VII of the Complaint and state the Regulations speak for themselves.

17. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 17 of Count VII of the Complaint and state the Regulations speak for themselves.

18. 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, 1962, shall be a cartridge filter, Cartridge filters shall be drained in their sealed housings for at least 8 hours prior to their removal.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 18 of Count VII of the Complaint and state the Regulations speak for themselves.

19. Dryer #2 was installed after December 14, 1962. It is not a solvent recovery dryer, and it lacks a cartridge filter.

ANSWER: Respondents admit the allegations of paragraph 19 of Count VII of the Complaint.

20. Respondents, by their conduct as alleged herein, violated Section 60.522 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.622, and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002).

ANSWER: Respondents deny the allegations of paragraph 20 of Count VII of the Complaint.

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State

of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

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

1 - 19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count VII as paragraphs 1 through 19 of this Count VIII.

ANSWER: Respondents restate their responses to paragraphs 1 through 19 of the Complaint as though fully stated here.

20. 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.

ANSWER: Respondents neither admit nor deny the allegations of paragraph 20 of Count VIII of the Complaint and state the Regulations speak for themselves.

21. Respondents did not initially test Dryer #2 to verify the flow rate of recovered solvent after Dryer #2 was installed in 1996.

ANSWER: Respondents deny the allegations of paragraph 21 of Count VIII of the Complaint and state there is no recovered solvent and there is no test to perform to verify flow rate.

22. Respondents, by their conduct as alleged herein, violated Section 60.624 of Title 40 of the Code of Federal Regulations, 40 C.F.R. 60.624, and Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (2002).

ANSWER: Respondents deny the allegations of paragraph 22 of Count VIII of the Complaint

WHEREFORE, Respondents DRAW DRAPE CLEANERS, INC., AMERICAN DRAPERY CLEANERS & FLANEPROOFERS, INC., and RICHARD ZELL denies that Complainant, the People of the State of Illinois, by James E. Ryan, Attorney General of the State of Illinois, are entitled to any relief, prays for the dismissal of the Amended Complaint and for such further relief as the Pollution Control Board deems just and proper.

AFFIRMATIVE DEFENSES

- A. In 1994, a fire at Respondent's plant damaged or destroyed part of the physical plant and equipment including a Dryer identical to Dryer #2 at issue in this Complaint. The Dryer that was damaged was installed in the 1960s and, pursuant to the Act, was "grandfathered in" and did not require a permit.
- B. Since Dryer #2 replaced an identical dryer damaged in the 1994 fire, Dryer #2 has been used mainly to ready drapes for pressing by "fluffing." The process of "fluffing" does not emit VOMs into the environment. During the last year, Dryer #2 has been used only for "fluffing" and has not emitted VOMs into the environment.
- C. Respondent installed Dryer #2 after the fire because there was no recovery dryer

available at that time (i.e., in 1994) in the size Respondent needed for his operations. When a recovery dryer the proper size became available in March 2002, Respondent ordered the new recovery dryer immediately. The manufacturer accepted Respondent's order for the new recovery dryer in May 2002 and delivered the new dryer (Dryer #3) in late September 2002. Dryer #3 is being installed at this time and Respondent has obtained a Permit #02030079 to operate Dryer #3.

- D. Respondent has always operated its plant below the emissions allowed under its FESOP Permit #95100005; in fact, Respondent would have to emit an additional 1,000 gallons per year to reach the emissions allowed under its FESOR.
- E. Respondent's operations are unique in that its process commercially flame proofs drapes in a cost effective manner that triples the life of the drapes. The State of Illinois has approved Respondent's operations for use by schools and related entities, and lists Respondent's operation as a source on the State's website.

**DRAW DRAPE CLEANERS, INC.,
AMERICAN DRAPERY CLEANERS &
FLANETPROOFERS, INC., and RICHARD
ZELL,**
Respondents,

By: Michael T. Weiss
One of their attorneys

Ariel Weissberg, Esq.
Michele Mary Rocawich, Esq.
WEISSBERG AND ASSOCIATES, LTD.
401 S. LaSalle St., Suite 403
Chicago, IL 60605
312/663-0004