

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 05 2005

STATE OF ILLINOIS
Pollution Control Board

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

Complainant,)

vs.)

SPECIALTY PROMOTIONS, INC. d/b/a)
SPECIALTY PRINTING COMPANY,)
a Foreign Corporation,)

Respondent.)

PCB No. 05-92
(Enforcement - Air)

NOTICE OF FILING

TO: Adam M. Lefebvre, President
Specialty Printing Company
6019 West Howard Street
Niles, IL 60714

PLEASE TAKE NOTICE that I have today, January 5, 2005, filed with the Office of the Clerk of the Illinois Pollution Control Board the **Stipulation and Proposal for Settlement and Motion for Relief from Hearing Requirement**, true and correct copies of which are attached hereto and herewith served upon you.

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

BY:



MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel.: (312) 814-2069

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
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 Complainant,)
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 vs.)
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 SPECIALTY PROMOTIONS, INC. d/b/a)
 SPECIALTY PRINTING COMPANY,)
 a Foreign Corporation,)
)
 Respondent.)

PCB No. 05-92
(Enforcement - Air)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and hereby moves for relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), and Section 103.300 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 103.300. In support of this Motion, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

* * *

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the

Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

(a) Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c) (2) of the Act

3. On November 15, 2004, the Complaint was filed on behalf of the People of the State of Illinois with the Board.

4. Simultaneous with the filing of this Motion, a Stipulation and Proposal for Settlement was filed with the Board, and no hearing is currently scheduled in this case.

WHEREFORE, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, respectfully moves for relief from the requirement of a hearing pursuant to Section 31(c) (2) of the Act and Board Procedural Rule 103.300.

Respectfully submitted,

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

BY:



MICHAEL C. PARTEE

Assistant Attorney General

Environmental Bureau/North

188 West Randolph Street, Suite 2001

Chicago, Illinois 60601

Tel.: (312) 814-2069

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 Respondent.)

STATE OF ILLINOIS
Pollution Control Board

PCB No. 05-92
(Enforcement - Air)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and Respondent, SPECIALTY PROMOTIONS, INC. d/b/a SPECIALTY PRINTING COMPANY, a foreign corporation, have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and

Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2002).

II. AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

III. STATEMENT OF FACTS

A. Parties

1. Simultaneous with the filing of this Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), against the Respondent.

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).

3. At all times relevant to the Complaint, Respondent was and is a Texas corporation that is authorized to transact business in Illinois.

B. Site Description

1. Specialty owns and operates a commercial printing facility located at 6019 West Howard Street, Niles, Cook County, Illinois.

2. On November 13, 1998, the Illinois EPA issued lifetime operating permit no. 98080009 to Specialty for commercial printing equipment that included one heatset offset printing press, five sheetfed offset printing presses, and one letter press.

3. The commercial printing equipment covered by lifetime operating permit no. 98080009 emits volatile organic material ("VOM") to the atmosphere.

4. Between about March 2002 and August 2002, Specialty constructed and began operating additional commercial printing equipment, including one coldset lithographic printing press, an oxidizer, and one heatset web press with oxidizer, all without obtaining construction permits from the Illinois EPA and without either modifying lifetime operating permit no. 98080009 or obtaining new operating permits from the Illinois EPA.

5. This additional commercial printing equipment also emits VOM to the atmosphere.

C. Allegations of Non-Compliance

Complainant contends that the Respondent violated the following provisions of the Act and Board regulations:

- Count I: Causing or allowing air pollution in violation of Section 9(a) of the Act (415 ILCS 5/9(a) (2002)) and Section 201.141 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.141);
- Count II: Constructing new emission sources and new air pollution control equipment without construction permits in violation of Section 9(b) of the Act (415 ILCS 5/9(b) (2002)) and Section 201.142 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.142);
- Count III: Operating new emission sources and new air pollution control equipment without operating permits in violation of Section 9(b) of the Act and Section 201.143 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.143);
- Count IV: Constructing a major source of VOM without CAAPP permits in violation of Section 9(b) of the Act and Section 203.201 of the Board's Air Pollution Regulations (35 Ill. Adm. Code 203.201);
- Count V: Operating a major source of VOM without CAAPP permits new emission sources and new air pollution control equipment without operating permits in violation of Section 39.5(5)(x) of the Act (415 ILCS 5/39.5(5)(x) (2002)) and Section 270.301 of the Illinois EPA's Air Pollution Regulations (35 Ill. Adm. Code 270.301);
- Count VI: Failing to achieve 90% reduction in emissions in violation of Section 9(a) of the Act and Section 218.407(a)(1)(C) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.407(a)(1)(C));
- Count VII: Failing to certify compliance with lithographic printing rules in violation of Section 9(a) of the Act and Section 218.411(b) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.411(b));
- Count VIII: Failing to file complete annual emission report in violation of Section 9(a) of the Act and Section 254.303(b) of the Board's

Air Pollution Regulations (35 Ill. Adm. Code 254.303(b));

Count IX: Violating special condition no. 2 of operating permit in violation of Section 9(b) of the Act;

Count X: Violating special condition no. 5 of operating permit in violation of Section 9(b) of the Act;

Count XI: Violating special condition no. 7 of operating permit in violation of Section 9(b) of the Act;

Count XII: Failing to maintain and operate continuous emission monitoring equipment in violation of Section 9(a) of the Act and Section 218.407(a)(1)(D) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 218.407(a)(1)(D));

D. Non-Admission of Violations

The Respondent neither admits nor denies the violations alleged in Counts I through XII of the Complaint filed in this matter and referenced within Section III.C herein.

E. Compliance Activities to Date

In August 2004, prior to the filing of this Stipulation, Respondent submitted a Clean Air Act Permit Program ("CAAPP") permit application covering all equipment at its facility.

IV. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of

any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

1. No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation.

2. In the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. Such notification shall be submitted to the contact persons identified in Section VIII.A. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation a condition of any such sale or transfer and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

3. The Respondent shall notify each contractor to be retained to perform work required by any Order accepting and adopting the terms

of this Stipulation of each of the requirements of said Order relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to each contractor already retained no later than 30 days after the date of adoption of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by any Order accepting and adopting the terms of this Stipulation.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

VI. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by the Respondent's violations.
2. There is social and economic benefit to the facility.
3. Operation of the facility is suitable for the area in which it is located.
4. Compliance with the Act and Board and Illinois EPA regulations was and is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the parties state as follows:

1. The Respondent failed to obtain permits prior to construction and operation of additional commercial printing equipment at its facility, failed to timely obtain CAAPP permits, failed to certify compliance with certain requirements and accurately report emissions, and violated provisions of the Act, Board's Air Pollution Regulations, Illinois EPA's Air Pollution Regulations, and lifetime operating permit no. 98080009. The

violations began between about March 2002 and August 2002 and will be resolved when the CAAPP permit application that was submitted by Respondent in August 2004 is granted by the Illinois EPA.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations, and Illinois EPA regulations, once the Illinois EPA notified it of its noncompliance.

3. The economic benefit to Respondent from its delay in compliance is nominal.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Seventy-Five Thousand Dollars (\$75,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Seventy-Five Thousand Dollars (\$75,000.00) in two installments of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) each. The first payment shall be made within 30 calendar days from the date the Board adopts and accepts this Stipulation. The second payment

shall be made within 90 calendar days from the date the Board adopts and accepts this Stipulation.

2. The two penalty payments described in the immediately preceding paragraph shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

The name and number of the case and Respondent's Federal Employer Identification Number ("FEIN"), 752655558, shall appear on the check or money order. A copy of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

Michael C. Partee (or designee)
Assistant Attorney General
Environmental Bureau North
188 West Randolph Street, Suite 2001
Chicago, IL 60601

Maureen Wozniak (or designee)
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

3. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2002). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date

payment is received. When partial payment(s) is made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

4. For purposes of payment and collection, Respondent may be reached at the following address:

Adam LeFebvre, President
Specialty Printing Company
6019 West Howard Street
Niles, IL 60714

5. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.D below, the Respondent hereby agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Sections 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h) (2002). Further,

Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C (Allegations of Non-Compliance) of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the \$75,000.00 penalty and any specified costs and accrued interest, completion of all activities required hereunder, to Cease and Desist as contained in Section VIII.C and upon the Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneous with this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;

c. liability for natural resources damage arising out of the alleged violations; and

d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

F. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.A. Any such request shall be made by separate document, and shall not be submitted

within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

G. Enforcement of Board Order

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation as written.

AGREED:

FOR THE COMPLAINANT:

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

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

BY: Rose Marie Cazeau/rab
ROSEMARIE CAZEAU, Chief
Environmental Bureau/North
Assistant Attorney General

DATE: 12/23/04

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: Joseph E. Svobeda
JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: 12-17-04

FOR THE RESPONDENT:

SPECIALTY PROMOTIONS, INC. d/b/a
SPECIALTY PRINTING COMPANY

BY: Alan M. JTC

ITS: PRESIDENT

DATE: 12-27-04

CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of Stipulation and Proposal for Settlement, Motion for Relief from Hearing Requirement and Notice of Filing were mailed, first class postage prepaid, to the person listed on the Notice of Filing on January 5, 2005.

BY: Michael C. ParTEE
MICHAEL C. PARTEE

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on January 5, 2005:

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

BY: Michael C. ParTEE
MICHAEL C. PARTEE