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JAN 16 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

v. )

PCB 04-16

PACKAGING PERSONIFIED, INC. )

an Illinois corporation, )

Respondent. )

**NOTICE OF FILING**

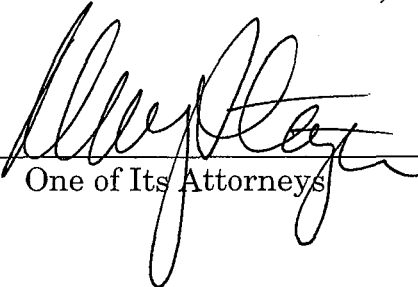
Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Christopher J. Grant  
Assistant Attorney General  
Office of the Attorney General  
Environmental Bureau  
188 W. Randolph, 20<sup>th</sup> Floor  
Chicago, IL 60601

PLEASE TAKE NOTICE that on January 16, 2004, Petitioner,  
Packaging Personified, Inc., filed with the Clerk of the Illinois Pollution  
Control Board, the attached ANSWER, a copy which is served upon you.

PACKAGING PERSONIFIED, INC.

By:

  
One of Its Attorneys

Mark J. Steger, Esq.  
Holland & Knight LLP  
131 S. Dearborn Street, 30th Floor  
Chicago, Illinois 60603  
(312) 263-3600



*alia*, with the duty of enforcing the Act, and regulations promulgated by the Illinois Pollution Control Board ("Board").

**ANSWER:** Respondent admits the allegations set forth in paragraph 2 of Count I.

3. At all times relevant to this complaint, Respondent PACKAGING PERSONIFIED, INC., was, and is, an Illinois corporation, duly authorized to transact business in the State of Illinois.

**ANSWER:** Respondent admits the allegations set forth in paragraph 3 of Count I.

4. The Respondent owns and operates a polyethylene and polypropylene film processing and printing facility located at 246 Kehoe Boulevard, Carol Stream, DuPage County, Illinois ("Facility" or "Site"). DuPage County is classified pursuant to the federal Clean Air Act, 42 U.S.C. 7401 et seq., as a 'severe ozone nonattainment area'.

**ANSWER:** Respondent admits that it owns and operates a facility located at 246 Kehoe Boulevard, Carol Stream, DuPage County, Illinois and denies the remaining allegations set forth in paragraph 4 of Count I.

5. As a regular part of its operations, the Respondent extrudes and prints plastic bags. The extrusion process is operated seven days per week, 24 hours per day. The printing process is operated 5 days per week, 16 hours per day. [E]xtruders, flexographic printing presses, curing ovens, and other equipment at the Site (collectively "Emissions sources") have the capacity to emit in excess of 25 tons of volatile organic material ("VOM") per year. The Respondent's actual 2002 VOM emissions were at least 44 tons.

**ANSWER:** Respondent admits that part of its operations involves the extrusion of film into plastic bags and printing images on plastic bags.

Respondent admits that its extruders, flexographic printing presses and

curing oven emit volatile organic material ("VOM"). Respondent further admits that its 2002 Annual Emission Report filed with the Illinois Environmental Protection Agency indicated that Respondent's VOM emissions for 2002 were 44.93 tons. Respondent denies the remaining allegations set forth in paragraph 5 of Count I.

6. The Respondent began installation of emissions sources at the Site on a date better known to Respondent, but prior to 1989. During the years 1989, 1992, and 1995, the Respondent installed four flexographic printing presses and a curing oven. During the years 1992 and 1995, the Respondent installed four extruders. At no time from the date the Respondent began installation of the emissions sources until the time of filing this complaint did the Respondent obtain Illinois EPA construction permits or operating permits for these emission sources.

**ANSWER:** Respondent admits that it installed certain emission sources during the years 1992-1995 without obtaining construction and operating permits from the Illinois EPA. Respondent denies the remaining allegations set forth in paragraph 6 of Count I.

7. Section 9 of the Act, 415 ILCS 5/9 (2002), provides, pertinent part, 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:** Respondent admits the allegations set forth in paragraph 7 of Count I.

8. Section 3.26 of the Act, 415 ILCS 5/3.26 (2002), provides, as follows:

"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:** Respondent admits the allegations set forth in paragraph

8 of Count I.

9. The Respondent, an Illinois corporation, is a "person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2002).

**ANSWER:** Respondent admits the allegations set forth in paragraph

9 of Count I.

10. Section 201.142 of the Board regulations, 35 Ill. Adm. Code 201.142, provides, as follows:

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

**ANSWER:** Respondent admits the allegations set forth in paragraph

10 of Count I.

11. Section 201.102 of the Board regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, as follows:

"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.

**ANSWER:** Respondent admits the allegations set forth in paragraph 11 of Count I.

12. Respondent's extruders, flexographic printing presses, and ovens are "emission source[s]" and "new emission source[s]" as those terms are defined in 35 Ill. Adm. 201.102.

**ANSWER:** Respondent denies the allegations set forth in paragraph 12 of Count I as it calls for a legal conclusion.

13. Section 3.02 of the Act, 415 ILCS 5/3.02 (2002), contains 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:** Respondent admits the allegations set forth in paragraph 13 of Count I.

14. Section 3.06 of the Act, 415 ILCS 5/3.06 2002), provides, as follows:

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

**ANSWER:** Respondent admits the allegations set forth in paragraph 14 of Count I.

15. VOM emitted from emissions sources at the Site is a "contaminant" as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (2002).

**ANSWER:** Respondent denies the allegations in paragraph 15 of Count I as it calls for a legal conclusion.

16. Respondent's emissions sources are capable of emitting VOM, a contaminant injurious to human health, to the atmosphere, and therefore are capable of causing or contributing to air pollution.

**ANSWER:** Respondent admits that certain emission sources at its facility emit VOM. Respondent denies the remaining allegations set forth in paragraph 16 of Count I.

17. On various dates from 1989 to the present, the Respondent commenced construction of the emissions sources at the Site, without first having applied for or obtained construction permits from Illinois EPA. Respondent thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and 35 Ill. Adm. Code 201.142. Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent admits that it constructed certain emission sources without first having applied for or obtained construction permits from the Illinois EPA. Respondent denies the remaining allegations set forth in paragraph 17 of Count I.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

### **Count II**

#### **OPERATION OF EMISSION SOURCES WITHOUT A PERMIT**

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 9, and paragraphs 11 through 16, of Count I as paragraphs 1 through 15 of this Count II.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 9, and paragraphs 11 through 16, of Count I as paragraphs 1 through 15 of this Count II.

16. Section 201.143 of the Board regulations, 35 Ill. Adm. Code 201.143, provides, as follows:

No person shall cause or allow the operation of any new emission source or any 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:** Respondent admits the allegations set forth in paragraph 16 of Count II.

17. Since the date of first installation in 1989, the Respondent has operated one or more emissions sources at the Site without having first applied for and obtained operating permits from Illinois EPA. The Respondent has thereby violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and 35 Ill. Adm. Code 201.143. Respondent's violations were willful, knowing and repeated.

**ANSWER:** Respondent admits that it operated certain emission sources without having first applied for and obtained operating permits from the Illinois EPA. Respondent denies the remaining allegations set forth in paragraph 17 of Count II.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

### **Count III**

#### **FAILURE TO SUBMIT TIMELY ANNUAL EMISSION REPORTS**

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 6, paragraphs 8 and 9, and paragraphs 14 through 16 of Count I as paragraphs 1 through 11 of this Count III.



**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 6, paragraphs 8 and 9, and paragraphs 14 through 16 of Count I as paragraphs 1 through 11 of this Count III.

12. The Respondent did not submit Annual Emission Reports to Illinois EPA for the years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000 and 2001, until August 8, 2002.

**ANSWER:** Respondent admits that by letter dated August 7, 2002 it filed its Annual Emission Reports for 1995-2001 with the Illinois EPA.

Respondent denies the allegations set forth in paragraph 12 of Count III.

13. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides, in pertinent part, 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, or so as to violate regulations or standards adopted by the Board under this Act;

**ANSWER:** Respondent admits the allegations set forth in paragraph 13 of Count III.

14. Section 201.302(a) of the Board regulations, 35 Ill. Adm. Code 201.302 (a) , provides, as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may

require more frequent reports where necessary to accomplish the purpose of the Act and this Chapter.

**ANSWER:** Respondent admits the allegations set forth in paragraph

14 of Count III.

15. Section 211.1950 of the Board regulations, 35 Ill. Adm. Code 211.1950, provides, in pertinent part, as follows:

"Emission unit" means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

**ANSWER:** Respondent admits the allegations set forth in paragraph

15 of Count III.

16. Section 211.6370 of the Board regulations provides, as follows:

"Stationary Source" means any building, structure, facility, or installation that emits or may emit any air pollutant.

**ANSWER:** Respondent admits the allegations set forth in paragraph

16 of Count III.

17. Respondent's facility is a "stationary source" as that term is defined in 35 Ill. Adm. Code 211.6370.

**ANSWER:** Respondent denies the allegations set forth in paragraph

17 of Count III as it calls for a legal conclusion.

18. The emissions sources at the Site are "emission unit[s]" as that term is defined in 35 Ill. Adm. Code 211.1950.

**ANSWER:** Respondent denies the allegations set forth in paragraph

18 of Count III as it calls for a legal conclusion.

19. Section 254.137 of the Board regulations, 35 Ill. Adm. Code 254.137, provides, in pertinent part, as follows:

a) All annual Emission Reports are due by May 1 of the year following the calendar year in which the emissions took place.

**ANSWER:** Respondent admits the allegations set forth in paragraph 19 of Count III.

20. The Respondent is the owner or operator of the VOM sources, and therefore was required to submit Annual Emission Reports, according to the schedule set forth in 35 Ill. Adm. Code 254.137, for each calendar year from 1992 until the present.

**ANSWER:** Respondent admits that it has filed annual emission reports with the Illinois EPA for 1995-2002. Respondent denies the remaining allegations set forth in paragraph 20 of Count III.

21. By failing to submit Annual Emission Reports for the years 1992 through 2001 until August 8, 2002, Respondent violated Sections 201.302(a) and 254.137 of the Board regulations, 35 Ill. Adm. Code Sections 201.302(a) and 254.137, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002). Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph 21 of Count III as it calls for a legal conclusion.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

Count IV

OPERATING A MAJOR STATIONARY SOURCE WITHOUT A CAAPP PERMIT

1-9. Complainant realleges and incorporates by reference herein paragraphs 1 through 8, and paragraph 13, of Count III as paragraphs 1 through 9 of this Count IV.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 8, and paragraph 13, of Count III as paragraphs 1 through 9 of this Count IV.

10. Section 39.5 of the Act, 415 ILCS 5/39.5 2002), provides, in pertinent part, as follows:

5. Applications and Completeness

a. An owner or operator of ,a CAAPP source shall submit its complete CAAPP application consistent with the Act and applicable regulations

\* \* \*

6. Prohibition

\* \* \*

b. After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

**ANSWER:** Respondent admits the allegations set forth in paragraph 10 of Count IV.

11. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) 2002), provides, in pertinent part, as follows:

"CAAPP" means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

"CAAPP permit" . . . means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP Source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) belonging to a single major industrial grouping. . . .

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant. . . .

"Regulated Air Pollutant" means the following:

1. Nitrogen oxides (NOx) or any volatile organic compound. . .

**ANSWER:** Respondent admits the allegations set forth in paragraph

11 of Count IV.

12. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) provides in pertinent part, as follows:

a. Sources subject to this Section shall include:

1. Any major source as defined in paragraph c) of this subsection.

c. For purposes of this Section the term "major source" means any source that is:

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or . . . to emit 25 tons or more per year in areas classified as severe . . .

**ANSWER:** Respondent admits the allegations set forth in paragraph

12 of Count IV.

13. Respondent's facility, located in a severe ozone nonattainment area, has the potential to emit over 25 tons per year of VOM and is a "major stationary source" as that term is defined in Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2002), and therefore also a "CAAPP source" as defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002).

**ANSWER:** Respondent denies the allegations set forth in paragraph

13 of Count IV as it calls for a legal conclusion.

14. Respondent owns and operates the emission sources at the Site, and therefore is the "owner and operator" of "CAAPP source" as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2002).

**ANSWER:** Respondent denies the allegations set forth in paragraph

14 of Count IV as it calls for a legal conclusion.

15. Section 39.5(5) of the Act, 415 ILCS 39.5(5) (2002), provides, in pertinent part, as follows:

a. An owner or operator of a CAAPP source shall submit its complete CAAPP application consistent with the Act and all applicable regulations.

**ANSWER:** Respondent admits the allegations set forth in paragraph

15 of Count IV.

16. Section 270.201(b) of the Board regulations, 35 Ill. Adm. Code 270.201(b) provides, in pertinent part, as follows:

b) an owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application not later than 6 months after the effective date of the CAAPP: 26 (paper and allied products); 27 (printing and publishing) . . . .

**ANSWER:** Respondent admits the allegations set forth in paragraph

16 of Count IV..

17. Respondent began operation of emissions sources at the Site in 1989, and was required to submit its CAAPP application by March 1, 1996. However, the Respondent did not submit a CAAPP application to Illinois EPA until July 2, 2002.

**ANSWER:** Respondent admits that it submitted its Clean Air Act

Permit Program application to the Illinois EPA by letter dated July 1, 2002.

Respondent denies the remaining allegations set forth in paragraph 17 of Count IV.

18. By failing to submit its application for a CAAPP permit by March 1, 1996, the Respondent violated Sections 39.5(5) and 39.5(6)(b) of the Act, 415 ILCS 5/39.5(5) and 5/39.5(6)(b) (2002), and 35 Ill. Adm. Code 270.201(b). By violating 35 Ill. Adm. Code 270.201(b), the Respondent thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002). Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph

18 of Count IV as it calls for a legal conclusion.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

Count V

VIOLATION OF NEW SOURCE REVIEW

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 9, and paragraphs 11 through 14, of Count IV as paragraphs 1 through 13 of this Count V.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 9, and paragraphs 11 through 14, of Count IV as paragraphs 1 through 13 of this Count V.

14. Pursuant to authority granted under the Act, the Board has promulgated standards applicable to major stationary sources of contaminants, at 35 Ill. Adm. Code, Part 203 ("Board Major Source regulations").

**ANSWER:** Respondent admits the allegations set forth in paragraph 14 of Count V.

15. Section 203.201 of the Board Major Source regulations, 35 Ill. Adm. Code 203.201, provides, in pertinent part, as follows:

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with the part for that pollutant. In areas designated for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or Nitrogen Oxides.

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph 15 of Count V.

16. Section 203.203 of the Board Major Source Regulations, 35 Ill. Adm. Code 203.203, provides, in pertinent part, as follows:



a) A construction permit is required prior to actual construction of a major new source or major modification.

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph

16 of Count V.

17. Section 203.301 of the Board Major Source regulations, 35 Ill. Adm. Code 203.301, provides, in pertinent part, as follows:

**Section 203.301 Lowest Achievable Emission Rates:**

a) For any source, lowest achievable emission rate (LAER) will be the more stringent rate of emissions based on the following. . . .

\* \* \*

b) The owner or operator of a new major stationary source shall demonstrate that the control equipment and process measures applied to the source will produce LAER.

\* \* \*

d) The owner or operator shall provide a detailed showing that the proposed emission limitation constitutes LAER. . . .

**ANSWER:** Respondent admits the allegations set forth in paragraph

17 of Count V.

18. During the years 1992, 1994, and 1995, the Respondent commenced construction of emission sources at the Site, a new major source, without first having applied for and obtained a construction permit from Illinois EPA. The Respondent thereby violated Section 203.203, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), and 35 Ill. Adm. Code 203.201.

**ANSWER:** Respondent admits that it constructed certain emission sources without first having applied for and obtained construction permits

from the Illinois EPA. Respondent denies the remaining allegations set forth in paragraph 18 of Count V.

19. The Respondent operated a new major stationary source without having first demonstrated that control equipment and process measures at its facility complied with LAER. Respondent thereby violated Section 203.301 of the Board. Major Source regulations, 35 Ill. Adm. Code 203.301, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) and 35 Ill. Adm. Code 203.201. Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph 19 of Count V as it calls for a legal conclusion.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

### **Count VI**

#### **EMISSION REDUCTION MARKET SYSTEM VIOLATIONS**

1-13. Complainant realleges and incorporates by reference herein, paragraphs 1 through 13 of Count III as paragraphs 1 through 13 of this Count VI.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 13 of Count III as paragraphs 1 through 13 of this Count VI.

14. During the five month period, May 1 until September 30, of each year from at least 1997 until the time of filing this complaint, Respondent's facility emitted more than 10 tons of VOM.

**ANSWER:** Respondent admits that its VOM emissions during the five-month period May 1 - September 30, for the years 2000, 2001 and 2002 were more than ten tons each year. Respondent denies the remaining allegations set forth in paragraph 14 of Count VI.

15. Respondent did not submit annual emission reports listing seasonal emissions for the years 2000, 2001, and 2002, until May 16, 2003.

**ANSWER:** Respondent admits that it submitted to the Illinois EPA its seasonal VOM emissions for 2000, 2001 and 2002. Respondent denies the remaining allegations set forth in paragraph 15 of Count VI.

16. Pursuant to the requirements of Section 9.8 of the Act, 415 ILCS 5/9.8 (2002), the Board has established regulations creating and regulating alternative air pollution controls, including the Emission Reduction Market System ("ERMS"). Regulations requiring participation and managing ERMS credits are found at 35 Ill. Adm. Code, Part 205 ("ERMS regulations")

**ANSWER:** Respondent admits the allegations set forth in paragraph 16 of Count VI.

17. Section 205.130 of the ERMS regulations, 35 Ill. Adm. Code 205.130 provides, in pertinent part, as follows:

"Annual Emissions Report" means the report submitted to the Agency annually pursuant to 35 Ill. Adm. Code 254.

"Baseline emissions" means a participating source's VOM emissions for the seasonal allotment period based on historical operations as determined under Subpart C of this Part. Baseline emissions shall be the basis of the allotment for each participating source.

"CAAPP" means the Clean Air Act Permit Program, pursuant to Section 39.5 of the Act (415 ILCS 5/39.5).

"Chicago ozone nonattainment area" means the area composed of Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County. "New participating source" means a source not operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has or will have seasonal emissions of at least 10 tons of VOM.

"Participating source" means a source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.

"Seasonal allotment period" means the period from May 1 through September 30 of each year.

"Seasonal emissions" means actual VOM emissions at a source that occur during a seasonal allotment period.

**ANSWER:** Respondent admits the allegations set forth in paragraph

17 of Count VI.

18. From at least 1997 until the present, Respondent's facility had seasonal emissions of at least 10 tons of VOM, and was a "participating source" as that term is defined in 35 Ill. Adm. Code 205.130. The Respondent is owner and operator of a "participating source".

**ANSWER:** Respondent admits that its VOM emissions during the five-month period May 1 through September 30 for years 2000-2002 were in excess of 10 tons each year. Respondent denies the remaining allegations set forth in paragraph 18 of Count VI.

19. Section 205.310 of the ERMS regulations, 35 Ill. Adm. Code 205.310, provides, in pertinent part, as follows:

- a) The owner or operator of each participating source or new participating source shall submit to the Agency an ERMS application in accordance with the following schedule:

1) For a participating source with baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Subpart, by March 1, 1998;

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph 19 of Count VI.

20. Section 205.300 of the ERMS regulations, 35 Ill. Adm. Code 205.300 provides, in pertinent part, as follows:

**Section 205.300 Seasonal Emissions Component of the Annual Emissions Report**

a) For each year in which the source is operational, the owner or operator of each participating source and new participating source shall submit, as a component of its Annual Emissions Report, seasonal emissions information to the Agency for each seasonal allotment period after the effective date of this Part in accordance with the following schedule:

1) For each participating source or new participating source that generates VOM emissions from less than 10 emission units, by October 31 of each year; and

**ANSWER:** Respondent admits the allegations set forth in paragraph 20 of Count VI.

21. Section 254.501 of the Board regulations, 35 Ill. Adm. Code 254.501, provides, in pertinent part, as follows:

**Section 254.501 Contents of a Seasonal Emissions Report**

a) The owner or operator of a source subject to the seasonal emissions reporting requirements for ERMS required by 35 Ill. Adm. Code 205.300 must provide the following information:

1) Source identification information:

A) Source name, physical location and mailing address;

- B) Name of Responsible Official; and
- C) Source contact telephone number.

\* \* \*

b) The owner or operator of a participating source or new participating source under 35 Ill. Adm. Code 205 must provide total seasonal actual emissions of hazardous air pollutants (HAPs) that are also VOM for the following HAPs:

\* \* \*

c) The owner or operator of each participating source or new participating source under 35 Ill. Adm. Code 205 must provide responses to the following questions regarding VOM HAPs for the seasonal allotment period addressed in the Seasonal Emissions Report:

1) To your knowledge, did emissions of any HAP increase at your source due to receipt or expected receipt of additional Allotment Trading Units (ATUs)?

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph

21 of Count VI.

22. Respondent was required submit its ERMS baseline application to Illinois EPA by March 1, 1998. By failing to submit ERMS baseline at any time up to the date of filing this Complaint, Respondent violated Section 205.310 of the ERMS regulations, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002). Respondent's violations were willful, knowing and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph

22 of Count VI as it calls for a legal conclusion.

23. Respondent's facility contains less than 10 emissions sources. Respondent was therefore required to submit seasonal emission information

for the years 2000, 2001, and 2002, conforming with 35 Ill. Adm. Code Sections 205.300 and 254.501, by October 31st of each respective year.

**ANSWER:** Respondent denies the allegations set forth in paragraph 23 of Count VI as it calls for a legal conclusion.

24. By failing to submit seasonal emission information for any year until May 16, 2003, Respondent violated 35 Ill. Adm. Section 9(a) of the Act, 415 ILCS 5/9(a)(2002). Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph 24 of Count VI as it calls for a legal conclusion.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

**Count VII**

**VIOLATION OF FLEXOGRAPHIC PRINTING RULES:  
FAILURE TO DEMONSTRATE COMPLIANCE**

1-9. Complainant realleges and incorporates by reference herein, paragraphs 1 through 8, and paragraph 13, of Count III, as paragraphs 1 through 9 of this Count VII.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 8, and paragraph 13, of Count III, as paragraphs 1 through 9 of this Count VII.

10. From at least April, 1992 until the present, Respondent has applied flexographic printing inks at the its facility having a VOC content as listed below:

FLEXOGRAPHIC PRINTING INK *	VOC CONTENT (% by volume) **
-----------------------------	------------------------------

Suntex H/R Silver	67.5
Sunsheen 021 Orange	57.69
Sunsheen Madras Orange	59.3
Methyl Violet Base	62.97
Sunsheen Pant Purple	71.3
N/C Carbozole Purple	86.62

[\* Trade names of Sun Chemical Company]

[\*\* VOC content does not include water or other excluded substances]

**ANSWER:** Respondent admits that it applied or applies flexographic printing inks identified in paragraph 10 of Count VII. Respondent denies the remaining allegations set forth in paragraph 10 of Count VII.

11. From at least September 27, 1993 until the time of filing of this Complaint, the Respondent failed to perform testing to demonstrate compliance with the VOC limitation applying to flexographic printing operations, failed to collect and record ink usage and VOM content, and failed to record the daily weighted average of VOM content of flexographic inks used at the Site.

**ANSWER:** Respondent denies the allegations set forth in paragraph 11 of Count VII.

12. Pursuant to authority granted under the Act, the Board has promulgated regulations limiting organic material emissions in the Chicago area, found at 35 Ill. Adm. Code part 218 ("O/M" Emission regulations").

**ANSWER:** Respondent admits the allegations set forth in paragraph 12 of Count VII.

13. Section 218.103 of the O/M Emission regulations, 35 Ill. Adm. Code 218.103, provides, in pertinent part, as follows:

**Applicability**



The provisions of this Part shall apply to all sources located in the Chicago area, which is composed of Cook, DuPage, Kane, Lake, McHenry and Will Counties, and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County.

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph

13 of Count VII.

14. Section 218.106 of the O/M emission regulations provides, in pertinent part, as follows:

**Compliance Dates**

a) Except as otherwise provided in this Section or as otherwise provided in a specific Subpart of this Part, compliance with the requirements of all rules is required by July 1, 1991. . . .

\* \* \*

**ANSWER:** Respondent admits the allegations set forth in paragraph

14 of Count VII.

15. Subpart H of the O/M emission regulations, titled PRINTING AND PUBLISHING ("Flexographic Printing rules"), regulates organic material content, material usage reporting, and record keeping for the flexographic printing industry within the greater Chicago area, including DuPage County, Illinois.

**ANSWER:** Respondent admits the allegations set forth in paragraph

15 of Count VII.

16. Section 218.402 of the Flexographic Printing rules, 35 Ill. Adm. Code 281.402 provides, in pertinent part, as follows:

a) The limitations of Section 218.401 of this Part apply to all flexographic and rotogravure printing lines at a subject source. Sources

with flexographic and/or rotogravure printing lines are subject sources if:

\* \* \*

2) The flexographic and rotogravure printing lines(s) . . . at the sources have a potential to emit (25 tons] or more of VOM per year.

ANSWER: Respondent admits the allegations set forth in paragraph 16 of Count VII.

17. Respondent's four flexographic printing lines have the potential to emit more than 25 tons of VOM per year, and are "subject sources" as that term is defined and used in 35 Ill. Adm. Code 218.402. The Respondent is the "owner and operator" of subject flexographic printing emission sources.

ANSWER: Respondent admits that its four flexographic printing lines emit VOM. Respondent denies the remaining allegations set forth in paragraph 17 of Count VII.

18. Section 218.401 of the Board Printing Rules, 35 Ill. Adm. Code 218.401 [effective September 27, 1993], provides, in pertinent part, as follows:

a) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line shall apply at any time any coating or ink unless the VOM content does not exceed the limitation specified in either subsection (a) (1) or (a) (2) below. Compliance with this Section must be demonstrated through the applicable coating or Ink analysis test methods and procedures specified in Section 218.105(a) of this part and the recordkeeping and reporting requirements specified in 218.404(c) of this Part. . . .

1) Forty percent VOM by volume of the coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM), or

\* \* \*

b) No owner or operator of a subject flexographic . . . printing line shall apply coatings or inks on the subject printing line unless the weighted average, by volume, VOM content of all coatings and inks as applied each day on the subject printing line does not exceed the limitations specified in either subsection (a)(1) [as determined by subsection (b)(1)] or subsection (a)(2) (as determined by subsection b(2)). Compliance with this subsection must be demonstrated through the applicable coating or ink analysis test methods and procedures specified in Section 218.105(a) of this Part and the recordkeeping and reporting requirements specified in Section 218.404(d) of this Part.

**ANSWER:** Respondent admits the allegations set forth in paragraph 18 of Count VII.

19. From September 27, 1993 until the date of filing this complaint, the Respondent applied inks with a VOM content in excess of forty percent, without performing any analysis of ink usage or otherwise demonstrating compliance with Section 218.401 of the Flexographic Printing Rules, 218.401. The Respondent thereby violated 35 Ill. Adm. Code 218.401, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002). Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent admits that it applied inks with a VOM content in excess of 40%. Respondent denies the remaining allegations set forth in paragraph 19 of Count VII.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

### **Count VIII**

#### **VIOLATION OF FLEXOGRAPHIC PRINTING RULES: FAILURE TO MAINTAIN RECORDS**

1-17. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, of Count VII, as paragraphs 1 through 17 of this Count VIII.

**ANSWER:** Respondent realleges and incorporates by reference herein its answers and objections to paragraphs 1 through 17, of Count VII, as paragraphs 1 through 17 of this Count VIII.

18. Section 218.404 of the Board Printing Rules [effective September 27, 1993], provides, in pertinent part, as follows:

**Recordkeeping and Reporting**

\* \* \*

c) Any owner or operator of a printing line subject to the limitations of Section 218.401 of this Part . . . shall comply with the following:

2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of Section 218.401 of this Part . . . shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

A) The name and identification number of each coating and ink as applied on each printing line.

B) The VOM content of each coating and ink as applied each day on each printing line.

\* \* \*

d) Any owner or operator of a printing line subject to the limitations of Section 218.401 of this Part . . . shall comply with the following:

2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of Section 218.401 of this Part . . . shall collect and record all of the following information each day for each printing line and maintain the information at the source for a period of three years:

- A) The name and identification number of each coating and ink as applied on each printing line.
- B) The VOM content and the volume of each coating and ink as applied each day on each printing line.
- C) The daily-weighted average VOM content of all coatings and inks as applied on each printing line.

**ANSWER:** Respondent admits the allegations set forth in paragraph

18 of Count VIII.

19. From at least September 27, 1993, until the time of filing this complaint, the Respondent failed to collect, record, and maintain records of the volume, name, identification number, VOC content, and daily weighted VOC content of inks and coatings used and applied at its facility. Respondent thereby violated Section 218.404(c) and (d) of the Board Flexographic Printing Rules, 35 Ill. Adm. Code 218.404(c) and (d), and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002). Respondent's violations were willful, knowing, and repeated.

**ANSWER:** Respondent denies the allegations set forth in paragraph

19 of Count VIII.

WHEREFORE, Packaging Personified, Inc., respectfully requests that the Board enter an order in favor of Respondent and against Complainant.

Respectfully submitted,

PACKAGING PERSONIFIED, INC.

By: \_\_\_\_\_

Mark J. Steger

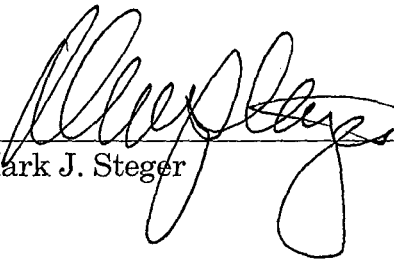
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CERTIFICATE OF SERVICE

Mark J. Steger, one of the attorneys for Packaging Personified, Inc., states that he caused a copy of the foregoing Notice of Filing and Answer to be served via U.S. Mail before the hour of 5:00 p.m. on January 16, 2004 to:

Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

Christopher J. Grant  
Assistant Attorney General  
Office of the Attorney General  
Environmental Bureau  
188 W. Randolph, 20<sup>th</sup> Floor  
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\_\_\_\_\_  
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