

ILLINOIS POLLUTION CONTROL BOARD

January 4, 1996

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 95-6
)	(IEPA No. 815-94-AC)
)	(Administrative Citation)
A-RELIABLE AUTO PARTS AND,)	
WRECKERS INC. a/k/a SCRAP PROCESSORS,)	
)	
Respondent.)	

MELANIE A. JARVIS, ASSISTANT COUNSEL, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY;

VINCENT BRIZGYS APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by E. Dunham):

On November 2, 1995, the Board issued an interim opinion and order in this matter. The interim opinion and order found that the respondent, A-Reliable Auto Parts and Wreckers, a/k/a Scrap Processors, violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and 21(p)(3) (1994)) on December 13, 1994. Having found a violation of the Act, the Board must assess the appropriate penalty for the violation.

Penalties in administrative citation actions are prescribed by Section 42(b)(4) of the Act which states:

In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (o) or (p) of Section 21 of this Act shall pay a civil penalty of \$500 for each violation of each such provision, plus any hearing costs incurred by the Board and the Agency. Such penalties shall be made payable to the Environmental Protection Trust Fund to be used in accordance with the provisions of the Environmental Protection Trust Fund Act except if a unit of local government issued the administrative citation, 50% of the civil penalty shall be payable to the unit of local government.

(415 ILCS 5/42(b)(4) (1994).)

The Board has found two such violations, therefore, the total penalty to be imposed against respondent is \$1000.00 plus hearing costs. The interim opinion and order requested affidavits from the Environmental Protection Agency (Agency) and the Clerk of the Board to determine hearing costs.

On November 8, 1995, the Agency filed an affidavit stating that its hearing costs were three-hundred-thirty-six dollars and twenty-one cents (\$336.21). The Agency's costs are for

traveling expenses incurred by for Agency employees in attending the hearing. On November 15, 1995, the Clerk of the Board filed an affidavit stating that the Board's hearing costs were three-hundred-fourteen dollars and thirty cents (\$314.30). The Board's costs are the costs of the court reporter and transcript. The respondent did not file an objection to the affidavits of cost. Therefore, the total hearing cost to be assessed against respondent is six-hundred-fifty dollars and fifty-one cents (\$650.51).

This opinion constitutes the Board's findings of facts and conclusions of law in this matter.

ORDER

1. Respondent, A-Reliable Auto Parts and Wreckers, a/k/a Scrap Processors, is hereby found to have violated 415 ILCS 5/21(p)(1)and (3) (1994) on December 13, 1994.
2. Within 45 days of this order respondent shall, by certified check or money order payable to the Illinois Environmental Protection Trust Fund, pay a civil penalty in the amount of \$1,000.00 to:

Fiscal Services
Illinois Environmental Protection Agency
2200 Churchill Road, P.O. Box 19276
Springfield, IL 62794-9276

Respondent shall also include the remittance form with the payment.

3. It is hereby ordered that within 45 days of the date of this order, respondent shall, by certified check or money order payable to the State of Illinois, designated for deposit to the General Revenue Fund, pay as compensation for hearing costs incurred by the Agency and the Board, the amount of six-hundred-fifty dollars and fifty-one cents (\$650.51) which is to be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

4. Respondent shall write the case name and number and social security or federal Employer Identification Number on each certified check or money order.

Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.

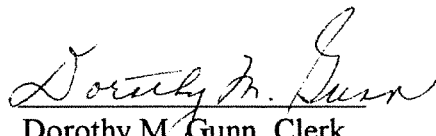
5. This docket is hereby closed.

IT IS SO ORDERED.

Chairman C. A. Manning dissented.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1994)), provides for appeal of final orders of the Board within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 4th day of January, 1996, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board