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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD MAR - 3 2005

OF THE STATE OF ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-16
)	(Enforcement - Air)
PACKAGING PERSONIFIED, INC.,)	
)	
Respondent.)	

NOTICE OF FILING

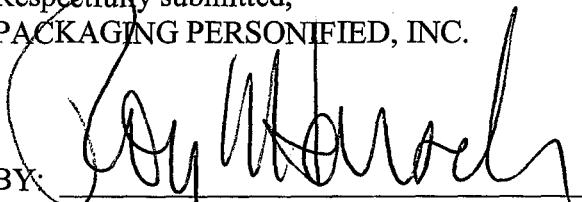
TO:

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

Christopher J. Grant
Office of the Attorney General
188 West Randolph, 20th Floor
Chicago, IL 60601

PLEASE TAKE NOTICE that on **Thursday, March 3 2005**, we filed the attached **Motion to Modify Hearing Officer Order** via hand delivery with the Clerk of the Illinois Pollution Control Board, a copy of which is herewith served upon you.

Respectfully submitted,
PACKAGING PERSONIFIED, INC.

BY: 

One of Its Attorneys

Roy M. Harsch
GARDNER, CARTON & DOUGLAS
191 N. Wacker Drive - Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1440

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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MOTION TO MODIFY HEARING OFFICER ORDER

NOW COMES, Packaging Personified, Inc. by its attorneys Roy M. Harsch and Gardner Carton & Douglas LLP and requests that the Hearing Officer suspend or otherwise modify the December 16, 2004 Hearing Officer Order entered in this matter. In support thereof, Respondent states as follows:

1. On December 16, 2004 the Hearing Officer entered an Order embodying an agreed upon discovery schedule which required, amongst other things, that Respondent answer or otherwise reply to Complainant's outstanding discovery on or before January 14, 2005 and that Respondent serve written discovery requests on Complainant on or before January 14, 2005.
2. On January 14, 2005 Respondent submitted its Answers and Objections to Complainant's First Set of Interrogatories and Request for Production of Documents and submitted Respondent's First Set of Interrogatories and Request for Production of Documents to Complainant in conformance with the terms of the December 16, 2004 Hearing Officer Order.
3. Pursuant to the December 16, 2004 Order, Complainant was required to respond to Respondent's written discovery request on or before February 15, 2005.

4. To date, Complainant has not submitted its response to Respondent's written discovery request, not sought any extension of time and has not provided the undersigned with any information as to when the response will be forthcoming.

5. Pursuant to the terms of the December 16, 2004 Hearing Officer Order, the parties are required to disclose expert and opinion witnesses on or before March 4, 2005.

6. Based upon Complainant's failure to respond to the written discovery request, Respondent will be unable to evaluate Complainant's case and therefore, will be unable to disclose opinion and expert witnesses as previously agreed to and as required by the December 16, 2004 Order.

7. Pursuant to the January 26, 2005 Hearing Officer Order, the parties currently are required to participate in a telephone status conference on March 31, 2005. Respondent is hopeful that prior to this date Complainant will have either responded to the outstanding written discovery request, formally sought an additional time period to respond or otherwise explained its actions. In lieu thereof, Respondent may be required to file a Motion to Compel.

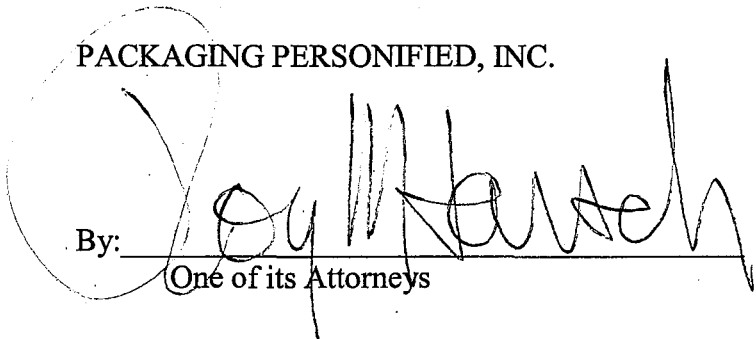
WHEREFORE, based upon the foregoing, Respondent respectfully requests that the Hearing Officer suspend or otherwise modify the discovery dates currently set forth in the December 16, 2004 Order with the understanding that the parties may be able to arrive at a revised discovery schedule during the status conference currently set in this matter for March 31,

2005 or failing an appropriate response to this Motion, Respondent may be forced to file a Motion to Compel.

Respectfully submitted,

PACKAGING PERSONIFIED, INC.

By:


One of its Attorneys

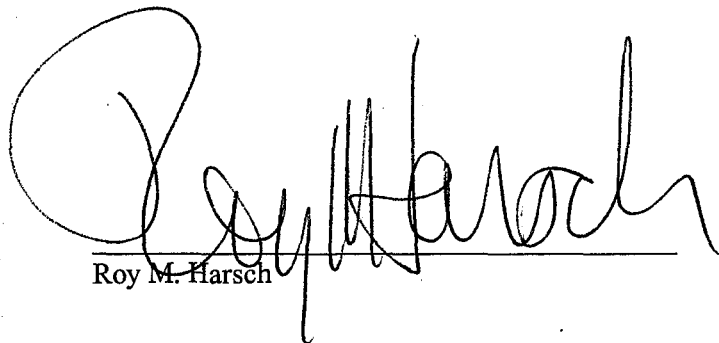
Roy M. Harsch
GARDNER CARTON & DOUGLAS LLP
191 N. Wacker Drive – Suite 3700
Chicago, IL 60606
312-569-1440

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Motion to Modify Hearing Officer Order** was filed via hand delivery with the Clerk of the Illinois Pollution Control Board and served upon the parties to whom said Notice is directed via electronic transmission and overnight mail from 191 North Wacker Drive, Chicago, Illinois on **Thursday, March 3, 2005**.

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

Christopher J. Grant
Office of the Attorney General
188 West Randolph, 20th Floor
Chicago, IL 60601



Roy M. Harsch