

ILLINOIS POLLUTION CONTROL BOARD  
April 20, 2000

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 96-119
	)	(Enforcement - Land)
WE SHRED IT, an Illinois corporation,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

This matter comes before the Board on an objection to withdrawal of appearance (objection) filed by the Illinois Attorney General's Office on behalf of the People of the State of Illinois (complainant) on March 21, 2000. Respondent We Shred It, Inc. (WSI) filed a reply to complainant's objection to withdrawal of appearance (reply) on March 23, 2000.

On March 20, 2000, WSI's attorney Becky S. McCray of Mohan, Alewelt, Prillaman & Adami filed a withdrawal of appearance with the Board. On March 23, 2000, WSI's attorneys Fred C. Prillaman (also of Mohan, Alewelt, Prillaman & Adami) and James L. Proffitt filed withdrawals of appearance as well.

Section 101.107(d) of the Board's procedural rules provides that an attorney who wishes to withdraw representation of a client must file a notice of withdrawal with the Board. 35 Ill. Adm. Code 101.107(d). No other Board rule addresses an attorney's withdrawal of representation.

In its objection, complainant cites to Section 101.100(b) of the Board's rules which provides that "in any absence of a specific provision of the rules to govern a particular situation, the parties or participants may argue that a particular provision of the Code of Civil Procedure or the Illinois Supreme Court Rules provide guidance for the Board or hearing officer." 35 Ill. Adm. Code 101.100(b). Complainant argues that Illinois Supreme Court Rule 13 provides guidance here, specifically Section (c)(3): "The motion [to withdraw] may be denied by the court if the granting of it would delay the trial of the case, or would otherwise be inequitable." 172 Ill. 2d R. 13(c)(3).

In the objection, complainant contends that the attorney withdrawals are intended to delay this action, especially considering that the hearing is slated to begin on May 4, 2000. Complainant states that it is ready to proceed with hearing on May 4. Complainant also states that the withdrawal of appearance is meant to avoid this enforcement action. Complaint at 2.

In the reply, Prillaman and McCray state that WSI is insolvent and unable to pay for legal services. Reply at 1. They refuse to proceed *pro bono*. They claim that withdrawal is automatic upon filing pursuant to Section 101.107(d) of the Board's rules and that no Board order is necessary. Reply at 2. They state that the withdrawals of appearance will not affect complainant's ability to proceed with its complaint. Reply at 3.

There is no dispute that WSI's attorneys complied with Section 101.107(d) of the Board's rules. The Board agrees with complainant that it is appropriate to look to Supreme Court Rule 13 for guidance in this situation.

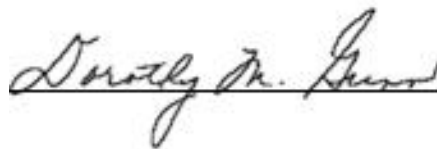
However, the Board finds nothing in complainant's unsubstantiated allegations to suggest that WSI's attorneys should not be allowed to withdraw from this case. For the sake of argument, assuming that this withdrawal will result in a continuance of the scheduled and noticed May 4 hearing date (WSI has not yet requested a continuance), complainant has failed to persuade the Board that it would be unduly prejudiced by a short delay in a case which has been pending since late 1995.

The Board will not attempt to force McCray, Prillaman, or Proffitt to represent WSI *pro bono*. The Board reminds WSI that, since it is a corporation, it must be represented by an attorney. If WSI chooses to retain another attorney in this matter, they may request that the Board's Clerk's Office provide a list of *pro bono* attorneys. The Board maintains the *pro bono* list. Attorneys on the *pro bono* list are not obligated to represent every party who seeks their services. Attorneys on the *pro bono* list may, at their discretion, decline to represent a party.

The Board denies complainant's objection and finds that McCray, Prillaman, and Proffitt all properly withdrew from this matter pursuant to Section 101.107(d) of the Board's rules. This matter will proceed to hearing. If WSI fails to appear at hearing through an attorney, it may lose this case by default.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of April 2000 by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in dark ink over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board