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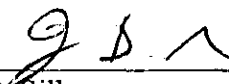
FEB 28 2007

**NOTICE OF FILING**  
**BEFORE THE**  
**ILLINOIS POLLUTION CONTROL BOARD**      **STATE OF ILLINOIS**  
Pollution Control Board

THE THEODORE KOSLOFF TRUST      )  
(As formed by the Irrevocable Agreement of )  
Trust of Theodore Kosloff, dated      )  
December 6, 1989, for Rachel Kosloff and      )  
Abigail Kosloff, a Pennsylvania trust),      )  
   Complainant,      )      PCB 06-163  
   vs.      )  
        )  
A&B WIREFORM CORPORATION,      )  
   Respondent.      )

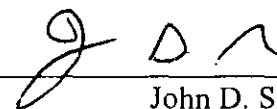
TO:      Mr. Sean Bezark      Bradley P. Halloran, Hearing Officer  
                 Greenberg Traurig      Illinois Pollution Control Board  
                 77 West Wacker Drive      James R. Thompson Center, Suite 11-500  
                 Suite 2500      100 W. Randolph Street  
                 Chicago, IL 60601      Chicago, IL 60601

PLEASE TAKE NOTICE that we have this day filed with Illinois Pollution Control Board, Respondent's Motion for Leave to File Answer *Instantly*, a copy of which is herewith served upon you.

  
\_\_\_\_\_  
John D. Silk  
Rothschild, Barry & Myers  
55 West Monroe Street, Suite 3900  
Chicago, IL 60603  
(312) 372-2345

**PROOF OF SERVICE**

The undersigned attorney certifies that a copy of Respondent's Notice of Filing and Motion for Leave to File Answer *Instantly* was served upon Sean Bezark and Bradley P. Halloran at their addresses listed above by depositing the same in the U.S. Mail with proper first-class postage prepaid this 28<sup>th</sup> day of February, 2007.

  
\_\_\_\_\_  
John D. Silk

State of Illinois  
POLLUTION CONTROL BOARD  
JAMES R. THOMPSON CENTER  
100 W. RANDOLPH STREET, SUITE 11-500  
CHICAGO, ILLINOIS 60601

**RECEIVED**  
CLERK'S OFFICE

FEB 28 2007

STATE OF ILLINOIS  
Pollution Control Board

**MOTION FOR LEAVE TO FILE ANSWER *INSTANTER***

**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

THE THEODORE KOSLOFF TRUST	)	
(As formed by the Irrevocable Agreement of	)	
Trust of Theodore Kosloff, dated	)	
December 6, 1989, for Rachel Kosloff and	)	
Abigail Kosloff, a Pennsylvania trust),	)	
	)	
Complainant,	)	PCB 06-163
	)	
vs.	)	
	)	
A&B WIREFORM CORPORATION,	)	
	)	
Respondent.	)	

Respondent, A&B Wire Form Corporation, for its Motion for Leave to File

Answer *Instantly*, states:

1. This Motion is directed to the hearing officer.
2. Complainant filed its Complaint in this matter on May 3, 2006.
3. 35 Ill. Adm. Code 103.204 (d) states:

Except as provided in subsection (e) of this Section, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.

4. Respondent did not file its answer within 60 days after receipt of the Complaint, because it did not understand that it was required to file a written answer. Respondent did not appear at multiple telephonic hearings, because it thought it had satisfied Complainant when it removed the containers that Complaint had complained about from its property. Respondent was not represented by counsel until a few days prior to the most recent telephonic hearing on February 15, 2007.

5. 35 Ill. Admin. Code 101.522 provides:

The Board or hearing officer, for good cause shown on a motion after notice to the opposite party, may extend the time for filing any document or doing any act which is required by these rules to be done within a limited period, either before or after the expiration of time.

6. Illinois courts often allow the late filing of a pleading as opposed to finding that

certain allegations are deemed admitted. *E.g. Bluestein v. Upjohn Co.*, 102 Ill.App.3d 672, 430 N.E.2d 580, 584 (1<sup>st</sup> Dist. 1981) (defendant allowed to file response to requests to admit nine months after requests served).

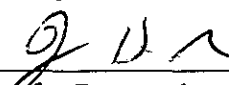
7. Here, there is good cause to allow the filing of the Respondent's Answer, a copy of which is attached hereto as Exhibit A. Respondent's failure to file a written answer or appear at the initial telephonic hearings was not done in bad faith. Respondent did not understand its legal obligation to file a written answer and misinterpreted the initial notices it received from the Board. As soon as Respondent became aware of its obligation, it appeared at the next scheduled telephonic hearing and, shortly thereafter, retained counsel.

8. It is in the interests of justice to allow Respondent an opportunity to defend this matter on the merits rather than to have the allegations of the Complaint deemed admitted.

9. Allowing the filing of the Answer will not prejudice Complainant. Complainant sold the property that it alleges was contaminated prior to the filing of its Complaint.

WHEREFORE, Respondent A&B Wire Form Corporation requests that its Motion for Leave to File Answer *Instantly* be granted.

Respectfully submitted,

  
\_\_\_\_\_  
Attorney for Respondent  
A&B Wire Form Corporation

John D. Silk  
Rothschild, Barry & Myers  
55 West Monroe Street  
Suite 3900  
Chicago, IL 60603  
(312) 372-2345

State of Illinois  
POLLUTION CONTROL BOARD  
JAMES R. THOMPSON CENTER  
100 W. RANDOLPH STREET, SUITE 11-500  
CHICAGO, ILLINOIS 60601

**ANSWER OF RESPONDENT TO FORMAL COMPLAINT**

**BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD**

THE THEODORE KOSLOFF TRUST	)	
(As formed by the Irrevocable Agreement of	)	
Trust of Theodore Kosloff, dated	)	
December 6, 1989, for Rachel Kosloff and	)	
Abigail Kosloff, a Pennsylvania trust),	)	
	)	
Complainant,	)	PCB 06-163
	)	
vs.	)	
	)	
A&B WIREFORM CORPORATION,	)	
	)	
Respondent.	)	

Allegation 1: Complainant's name, street address, county, state:

The Theodore Kosloff Trust  
c/o Sean Bezark  
Greenberg Traurig, LLP  
77 West Wacker Drive, Suite 2500  
Chicago, IL 60601  
Phone: (312) 476-5027

**RESPONSE:** Admitted.

Allegation 2: Place where Complainant can be contacted during normal business hours (if different from above):

The Theodore Kosloff Trust  
c/o Sean Bezark  
Greenberg Traurig, LLP  
77 West Wacker Drive, Suite 2500  
Chicago, IL 60601  
Phone: (312) 476-5027

**RESPONSE:** Admitted.

Allegation 3: Name and address of Respondent (alleged polluter):

A&B Wireform Corporation  
ATTN: Mr. Connor Creevy  
7525 Industrial Drive  
Forest Park, IL 60130

**RESPONSE:** Respondent denies that "A&B Wireform Corporation" is the correct legal name of Respondent. Respondent admits that its address is 7525 Industrial Drive, Forest Park, IL 60130.

Allegation 4: Respondent A&B Wireform Corporation maintains an exterior drum storage area in the northwestern corner of its property, located at 7525 Industrial Drive, Forest Park, Illinois (the "A&B Property"). The drum storage area is located along the property line, directly adjacent to property formerly owned by The Theodore Kosloff Trust, located at 7609 Industrial Drive, Forest Park, Illinois ("the Trust Property"). Upon information and belief, releases of hazardous substances from 55-gallon drums and containers of unknown substances in the drum storage area have migrated onto the Trust Property and impacted soil. The Theodore Kosloff Trust has incurred investigation and remediation costs to address the contamination migrating from the A&B Property, and suffered diminution in the value of the Trust Property (as evidenced by a

substantial concession in the sale price of the Trust Property directly attributable to the contamination caused by Respondent described herein).

**RESPONSE:** Respondent denies that it currently maintains an exterior drum storage area in the northwestern corner of its property located at 7525 Industrial Drive, Forest Park, Illinois. Respondent admits that for a brief period of time, certain containers were stored along the property line that is adjacent to the property located at 7609 Industrial Drive, Forest Park, Illinois. Respondent lacks knowledge or information sufficient to form a belief as to whether the property located at 7609 Industrial Drive, Forest Park, Illinois was formerly owned by The Theodore Kosloff Trust. Respondent denies that releases of hazardous substances from 55-gallon drums and containers of unknown substances in the drum storage area have migrated onto the Trust Property and impacted soil. Respondent lacks knowledge or information sufficient to form a belief as to whether the Theodore Kosloff Trust has incurred investigation and remediation costs to address the alleged contamination allegedly migrating from the A&B Property, and suffered diminution in the value of the Trust Property. Respondent denies that any contamination migrated to the Trust Property from the A&B Property. Respondent lacks knowledge or information sufficient to form a belief as to whether there was a substantial concession in the sale price of the Trust Property. Respondent denies that any concession in the sale price of the Trust Property is directly attributable to the alleged contamination allegedly caused by Respondent, and Respondent denies that it caused any contamination.

**Allegation 5:** Respondent A&B Wireform Corporation ("A&B") has violated and, upon information and belief, continues to violate, *inter alia*, sections 21 (d) and (e) of the Illinois Environmental Protection Act (415 ILCS 5/21 ).

**RESPONSE:** Denied.

**Allegation 6:** Hazardous substances consisting of, *inter alia*, polycyclic aromatic hydrocarbons ("PAHs"), migrated from the drum storage area on the A&B Property onto the immediately adjacent Trust Property, resulting in concentrations of PAHs in soil on the Trust Property in excess of Illinois soil remediation objectives ("SROs").

**RESPONSE:** Respondent lacks knowledge or information sufficient to form a belief as to whether there are concentrations of PAHs in the soil on the Trust Property in excess of Illinois soil remediation objectives. Respondent denies the remaining allegations of this paragraph.

**Allegation 7:** The pollution was first identified in a Phase I Environmental Site assessment of the Trust Property, dated September 1, 2005, prepared by Bradburne, Briller and Johnson, LLC ("BB&J"). On information and belief, A&B has stored chemicals and waste material in the drum

storage area in the northwest corner of the A&B Property for an extended period of time, and continues to do so, resulting in the release and migration of hazardous substances onto the Trust Property as described above.

**RESPONSE:** Respondent lacks knowledge or information sufficient to form a belief as to whether pollution was identified in a Phase I Environmental Site assessment of the Trust Property, dated September 1, 2005, prepared by Bradburne, Briller and Johnson, LLC ("BB&J"). Respondent denies the remaining allegations of this paragraph.

**Allegation 8:** Contaminants migrating from the drum storage area at the A&B Property have impacted soil on the A&B Property, as evidenced by staining beneath and around the drum storage area. This contamination also has migrated onto the Trust Property, as was evidenced by surficial staining extending from the drum storage area onto the Trust Property. A Phase II Environmental Site Assessment, dated September 21, 2005, prepared by BB&J, detected concentrations of PAHs in subsurface soil on the Trust Property, immediately adjacent to the drum storage area on the A&B Property in excess of Illinois soil and groundwater criteria for Class I Groundwater and commercial-industrial SROs.

**RESPONSE:** Respondent denies that contaminants migrating from the drum storage area at the A&B Property have impacted soil on the A&B Property, as evidenced by staining beneath and around the drum storage area. Respondent denies that contamination has migrated onto the Trust Property, as evidenced by surficial staining extending from the drum storage area onto the Trust Property. Respondent lacks knowledge or information sufficient to form a belief as to the truth of whether a Phase II Environmental Site Assessment dated September 21, 2005, prepared by BB&J, detected concentrations of PAHs in subsurface soil on the Trust Property, immediately adjacent to the drum storage area on the A&B Property in excess of Illinois soil and ground water criteria for Class I Groundwater and commercial-industrial SROs.

**Allegation 9:** The Theodore Kosloff Trust seeks (1) reimbursement of costs it incurred to investigate and remediate the described contamination caused by Respondent on the Trust Property, (2) an order requiring respondent A&B to cease and desist its chemical and waste storage practices in the northwest corner of its parking lot, and to conduct a subsurface investigation and any required remediation in the vicinity of the drum storage area, and (3) recovery of amounts lost as diminution in property value in a recent sale of the Trust Property that resulted directly from the described contamination caused by Respondent.

**RESPONSE:** Respondent lacks knowledge or information sufficient to form a belief as to what relief the Theodore Kosloff Trust seeks, but denies that the Theodore Kosloff Trust is entitled to any relief.



Allegation 10: Identify any identical or substantially similar case Complainant knows of that is already pending before the Board or in another forum against this respondent for the same alleged pollution: None.

**RESPONSE**: Respondent admits that there is no identical or substantially similar case already pending before the Board or in another forum against this Respondent for the same alleged pollution.

Allegation 11: The Irrevocable Agreement of Trust of Theodore Kosloff for Rachel Kosloff and Abigail Kosloff dated December 6, 1989, is a Pennsylvania trust. I, Sean Bezark, am an attorney licensed and registered to practice law in the State of Illinois. I am representing The Theodore Kosloff Trust in this matter before the Board.

**RESPONSE**: Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations of the first sentence of this paragraph, and admits the allegations of the second and third sentences of this paragraph.

Respectfully submitted,

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Attorney for Respondent  
A&B Wire Form Corporation

John D. Silk  
Rothschild, Barry & Myers  
55 West Monroe Street  
Suite 3900  
Chicago, IL 60603  
(312) 372-2345