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ROGER KEVIN O'REILLY  
(1934-2000)

February 5, 2010

Hearing Officer Halloran  
Sent via email to [HALLORAB@ipcb.state.il.us](mailto:HALLORAB@ipcb.state.il.us)

Re: **MORRISSEY v. PAHIOS & ALPINE AUTOMOTIVE**  
Case No. PCB 2009-010  
Our File No. 595-JFO

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Dear Hearing Officer Halloran:

It was brought to my attention that Mr. Slivnick and Mr. Oleksak made certain representations to you regarding their decision that they would not take the deposition of Mr. Greg Zak, the Complainant's disclosed expert in this case. I have prepared a sworn affidavit with exhibits for your review on this issue. It should be apparent that I and my office staff repeatedly expended a great amount of time and effort to make Mr. Zak available to respondent's attorneys for deposition. On many occasions, I and my office staff left messages to schedule the deposition that would go unreturned would require follow up calls to both Mr. Oleksak and Mr. Slivnick. Despite this lack of cooperation, we repeatedly made effort to make Mr. Zak available and, as a result, imposed a considerable burden on Mr. Zak's schedule that he generously cleared for his deposition in this case. You may recall or perhaps your notes may reflect that on September 17, 2009, respondent's attorneys had not yet decided whether to take Mr. Zak's deposition and this matter was continued to October 22, 2009 for them to either complete the deposition of Mr. Zak or forego the opportunity to do so.

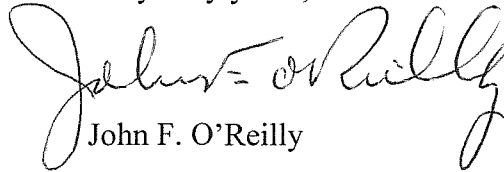
At the October 22, 2009 hearing, all parties reported that respondent's attorneys did not wish to depose Mr. Zak. No one ever suggested that Mr. Zak was not going to testify at the hearing. I do not believe Mr. Oleksak and Mr. Slivnick are genuine in their representations to you that it was agreed or even interpreted by them that Mr. Zak would not testify at the hearing. Respondent's decision not to take Greg Zak's deposition was unilateral on respondent's part and Mr. Oleksak explained that their client did not want to incur the legal expense of travel to Springfield, Illinois and that they had Mr. Zak's report to prepare for the hearing. Further, I would have no reason to withdraw our expert in this matter as his opinions were already completed and disclosed in his report. Secondly, if there were actually any agreement or representation made that we would agree not to produce him at the hearing, one would necessarily expect a written document reflecting such an absurd agreement, as well as, a representation to this effect to yourself, the hearing officer, at the October 22, 2009 status

Electronic Filing - Received, Clerk's Office, February 5, 2010

hearing which was set for the very purpose of reporting on the completion of Mr. Zak's deposition.

Quite frankly, this appears to be blatant tactical gamesmanship at my expense. As you know, I am no longer of record as counsel in this matter. By way of explanation, my appearance in the noise pollution case was necessitated by the respondent having filed two lawsuits against Mr. And Mrs. Morrissey in Lake County Circuit Court. Since the Morrissey's were to be deposed in the noise pollution case on the facts surrounding their preservation of evidence of noise violations, I needed to represent them at their depositions because they were being sued for their efforts in Lake County. I realize that due to this current claim by respondent's attorney, it presents some difficulty for you in determining the merit of these current claims made by respondent's attorneys at this time. I would like to express my willingness to cooperate and answer any questions you may have on this issue at the next telephonic hearing or at any other agreeable time. Please let me know if you would like me to be available as a witness to the conversations regarding Mr. Zak's service as an expert in this case.

Very truly yours,

A handwritten signature in cursive script that reads "John F. O'Reilly". The signature is written in black ink and is positioned above the printed name.

John F. O'Reilly

JFO/am

Cc: Mr. Slivnick and Mr. Oleksak