

NOV 15 2012

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD
November 15, 2012

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

ORIGINAL
CLERK'S OFFICE

HEARING OFFICER ORDER

Procedural History

On March 1, 2012, the Board ordered that a supplemental hearing be held to address an economic benefits issue regarding Press 4 and Press 5, from March 15, 1995 to February 26, 2004, in accordance with 415 ILCS 5/42(h)(3) (2010). People v. Packaging Personified Inc., PCB 04-16 slip op at 16-17 (Mar. 1, 2012) The parties have since proceeded with exchanging discovery.

Complainant's Amended Motion To Compel

On October 19, 2012, the complainant filed an Amended Motion to Compel respondent to produce complete federal tax returns, with all schedules and attachments, for the years 1995 through 2004, as requested by the complainant in Production Request No. 10. Mot. at 1-2. Complainant states that respondent does not have “production records or ink purchasing records for the period from 1995 to 2004, [nor] does it have any data on the printing jobs that were run from March 15, to February 26, 2004 on the two presses, including when the jobs were received and delivered and the costs associated with them”. Mot. at 3. Further, the respondent “does not have information on the personnel costs required to run those printing jobs”. *Id.* The complainant maintains that “[t]he complete tax returns contain additional, highly relevant information related to sales, profits, labor costs, utility costs, changes in labor/utility costs, deductions, any capital expenditures on the presses or tunnel dryer, and other items”. *Id.*

**Respondent's Response In Opposition To
Complainant's Amended Motion To Compel Discovery**

On October 25, 2012, the respondent filed its response (Resp.). In a nutshell, the respondent contends that “Packaging’s federal tax returns [are not] relevant to any expert testimony offered by Packaging, [nor are] Packaging’s sales, profits or costs in any year for

which returns are sought have [any] bearing upon the calculation of economic benefit in this case". Resp. at 1.

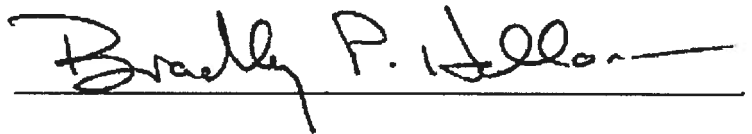
Discussion And Ruling

In pertinent part, Section 101.616 (a) of the Board's procedural rules states that "[a] ll relevant information and information calculated to lead to relevant information is discoverable, excluding those materials that would be protected from disclosure in the courts of this State pursuant to statute, Supreme Court Rules or common law". Additionally, the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance where the Board's procedural rules are silent. *Id.*

I find that the federal tax returns sought by the complainant may be relevant or lead to relevant information. Given the paucity of other relevant information, the requested tax returns may shed light on the economic benefits issue that would assist the Board in its ultimate decision. Accordingly, the respondent is directed to produce complete federal tax returns, with all schedules and attachments for the years 1995 through 2004.

The parties are reminded that the Board's procedural rules provide that the parties may seek Board review of discovery rulings pursuant to 35 Ill. Adm. Code 101.616 (e). Filing of any such appeal of a hearing officer order does not stay the proceeding.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Bradley P. Halloran". The signature is written in a cursive style and is positioned above a solid horizontal line.

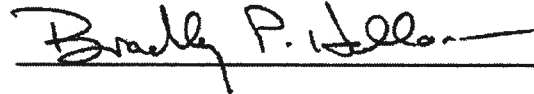
Bradley P. Halloran
Hearing Officer
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CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on November 15, 2012, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on November 15, 2012:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
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Chicago, Illinois 60601

A handwritten signature in black ink, reading "Bradley P. Halloran", is written over a solid horizontal line.

Bradley P. Halloran
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