

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) **PCB No. 13 -**  
 ) **(Enforcement – Air)**  
 DIVERSIFIED LABELING SOLUTIONS, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

**NOTICE OF ELECTRONIC FILING**

TO: Timothy Ramsey  
Ungaretti & Harris  
Three First National Plaza  
70 West Madison Street, Suite 3500  
Chicago, Illinois 60602-4224

PLEASE TAKE NOTICE that today, December 6, 2012, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

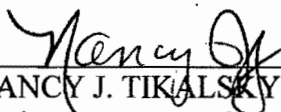
**NOTIFICATION**

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

**THIS FILING IS SUBMITTED ON RECYCLED PAPER**

PEOPLE OF THE STATE OF ILLINOIS,  
by LISA MADIGAN, Attorney General  
of the State of Illinois

BY:

  
\_\_\_\_\_  
NANCY J. TIKALSKY  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington St., Suite 1800  
Chicago, Illinois 60602  
(312) 814-8567

Date: December 6, 2012

**CERTIFICATE OF SERVICE**

I, Nancy J. Tikalsky, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on December 6, 2012.

BY:   
NANCY J. TIKALSKY



Illinois. Diversified owns and operates a printing facility located at 1285 Hamilton Parkway, Itasca, DuPage County, Illinois ("Facility").

4. As of April 2011, Diversified operates 19 emissions units at the Facility consisting of thirteen (13) flexographic printing presses and six (6) die cutting machines at the Facility, which are emission sources located in a Clean Air Act ozone nonattainment area classified as "severe," that have the capacity to emit greater than 25 tons per year of volatile organic material ("VOM").

5. Beginning in 1986 and continuing through 1995, or a date or dates better known to Respondent, Diversified constructed and began operating eight (8) of the aforementioned flexographic printing presses at the Facility.

6. Beginning in 1996 and continuing through 2001, or a date or dates better known to Respondent, Diversified constructed and operated three (3) of the aforementioned flexographic printing presses, and five (5) of the aforementioned die cutting machines at the Facility.

7. In 2004, or a date or dates better known to Respondent, Diversified constructed two (2) of the aforementioned flexographic printing presses, and one (1) of the aforementioned die cutting machines at the Facility and failed to pay any construction permit fees until November 11, 2012 for these units, or a date better known to Respondent.

8. Printing operations of the flexographic printing presses at the Facility all use inks and solvents, which emit gaseous matter and VOM into the environment.

9. From the beginning of 1986 through April 2011, or a date or dates better known to Respondent, Diversified failed to submit applications and obtain air emissions

construction permits and operating permits issued by the Illinois EPA for constructing and operating thirteen (13) flexographic printing presses and six (6) die cutting machines at the Facility, or to timely submit certification to the Illinois EPA to certify compliance with or exemption from the Board's printing regulations.

10. From January 1996 through April 2011, or a date or dates better known to Respondent, Diversified had the capacity to emit VOM greater than 25 tons per year ("tpy").

11. From 1992 through 2010, or a date or dates better known to Respondent, Diversified failed to timely submit Annual Emission Reports ("AER") to the Illinois EPA.

12. Section 9(b) of the Act, 415 ILCS 5/9(b) (2010), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit;

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides the following definition:

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

14. Respondent is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

16. VOM is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

17. Section 3.115 of the Act, 415 ILCS 5/3.115 (2010), provides the following definition:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

18. Because the Facility emits, or is capable of emitting, VOM, a contaminant, to the atmosphere, it is capable of causing or contributing to "air pollution" as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2010).

19. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 201.102, provides the following definition:

“New Emission Source”: Any emission source, the construction or modification of which is commenced on or after April 14, 1972.

20. Section 201.142 of the Illinois Pollution Control Board (“Board”) Air

Pollution Regulations, 35 Ill. Adm. Code 201.142, provides as follows:

**Construction Permit Required**

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Sections 201.146 or Section 201.170(b) of this Part.

21. By constructing 13 flexographic printing presses and 6 die cutting machines at the Facility, which were new emission sources as that term is defined in Section 201.102 of the Board Air Pollution Regulation, 35 Ill. Adm. Code 201.102, beginning in 1986 and continuing through April 2011, the exact dates best known to Respondent, without first obtaining a construction permit issued by the Illinois EPA, Respondent, Diversified, violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) (b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;



2. Finding that Respondent violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9 (a) and (b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Ordering the Respondent to cease and desist from any further violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9 (a) and (b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
4. Ordering Respondent to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.142 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.142, including but not limited to securing a Clean Air Act Permit Program ("CAAPP") or Federally Enforceable State Operating Permit ("FESOP") permit from the Illinois EPA that appropriately reflects the operations and emissions at the Facility;
5. Assessing against Respondent a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
6. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
7. Granting such other relief as the Board deems appropriate and just.

**COUNT II**

**OPERATING EMISSION SOURCES WITHOUT AN OPERATING PERMIT**

1-19. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 19 of Count I, as paragraphs 1 through 19 of this Count II.

20. Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides as follows:

21. Operating Permits for New Sources

No person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by Section 201.157) as shall be specified in the construction permit.

22. By operating 8 flexographic printing presses at the Facility, which were new emission sources as that term is defined in Section 201.102 of the Board Air Pollution Regulation, 35 Ill. Adm. Code 201.102, beginning in 1986 and continuing through March 1996, the exact dates best known to Respondent, without first obtaining a operating permit issued by the Illinois EPA, Respondent, Diversified, violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS,  
respectfully requests that the Board enter an Order against the Respondent,  
DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

3. Ordering the Respondent to cease and desist from any further violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143;

4. Ordering Respondent to immediately undertake the necessary corrective action that will result in a final and permanent abatement of violations of Sections 9(a) and (b) of the Act, 415 ILCS 5/9(a) and (b) (2010), and Section 201.143 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.143, including but not limited to securing a CAAPP or FESOP permit from the Illinois EPA that appropriately reflects the operations and emissions at the Facility;

5. Assessing against Respondent a civil penalty, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010), of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

- 6. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
- 7. Granting such other relief as the Board deems appropriate and just.

**COUNT III**

**FAILURE TO SUBMIT TIMELY CAAPP APPLICATION**

1-13. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 11, 13 and 14 of Count I, as paragraphs 1 through 13 of this Count III.

14. Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010), provides as follows:

b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

15. Section 39.5(5) of the Act, 415 ILCS 5/39.5(5) (2010), provides, in pertinent part, as follows:

**Applications and Completeness.**

\* \* \*

a. An owner or operator of a CAAPP source shall submit its complete CAAPP application consistent with the Act and applicable regulations.

\* \* \*

x. The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with this subsection within 12 months after commencing operation of such source. The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or paragraph (c) of subsection 3 of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

16. Section 39.5(2) of the Act, 415 ILCS 5/39.5(2) (2010), provides, in pertinent part, as follows:

**Applicability**

a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

\* \* \*

c. For purposes of this Section the term "major source" means any source that is:

\* \* \*

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme"; . . . .

\* \* \*

17. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides, in pertinent part, the following definitions:

"CAAPP" means the Clean Air Act Permit Program developed pursuant to Title V of the Clean Air Act.

"CAAPP PERMIT"... means any permit issued, renewed, amended, modified, or revised pursuant to Title V of the Clean Air Act.

"CAAPP SOURCE" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"OWNER OR OPERATOR" means any person who owns, leases, operates, controls, or supervises a stationary source.

"POTENTIAL TO EMIT" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

"SOURCE" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person or persons under common control) and that belongs to a single major industrial grouping....

"STATIONARY SOURCE" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant . . . .

"REGULATED AIR POLLUTANT" means the following:

- \* \* \*
- 1. . . . any volatile organic compound.

18. VOM is a "regulated air pollutant" as that term is defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

19. From on or about March 1996 through September 2011, or a date better known to Respondent, by operating at the Facility that had the capacity to emit VOM greater than 25 tons per year ("tpy"), the Facility was a "stationary source" a "source" and a

“CAAPP source” as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

20. The Facility, located in a “severe” ozone non-attainment area, is a “major source” as that term is defined in Section 39.5(2)(c)(iii)(A) of the Act, 415 ILCS 5/39.5(2)(c)(iii)(A) (2010).

21. Respondent is an “owner or operator” that must obtain a “CAAPP permit” as those terms are defined in Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010).

22. Since at least March 1996, or a date better known to Diversified, when Diversified had a change in operations at the Facility, Respondent was required to submit an application to the Illinois EPA for a CAAPP permit or, alternatively, a FESOP, at least 180 days before commencing operation in accordance with the change in operation at the Facility.

23. By operating the Facility, a major source, without timely submitting an application before commencing operation as a major source, Diversified violated Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x) (2010), and, thereby, violated Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x) (2010), and Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 39.5(5)(x) of the Act, 415 ILCS 5/39.5(5)(x) (2010), and Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);
4. Assessing against Respondent a civil penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

#### COUNT IV

#### **FAILURE TO SUBMIT ANNUAL COMPLIANCE CERTIFICATION FOR CLEAN AIR ACT PERMIT PROGRAM**

- 1-18. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 18 of Count I, as paragraphs 1 through 18 of this Count IV.
19. Section 218.404(d)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(d)(1), provides as follows:

d) Any owner or operator of a printing line subject to the limitations of Section 218.401 of this Part and complying by means of Section 218.401(b) shall comply with the following:

- 1) By a date consistent with Section 218.106 of this Part, or Section 218.403(e), as applicable, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing subject printing line from Section 218.401(a) or (c) of this Part to Section 218.401(b) of this Part, the owner or operator of the subject printing line shall certify to the Agency



that the printing line will be in compliance with Section 218.401(b) of this Part on and after a date consistent with Section 218.106 of this Part, or Section 218.403(e), as applicable, or on and after the initial start-up date. The owner or operator of a printing line subject to the requirements in Section 218.401(b)(3) shall certify in accordance with this subsection (d)(1) even if the owner or operator of such line submitted a certification prior to January 1, 2010. Such certification shall include: ...

20. By failing to timely submit a certification to the Illinois EPA to certify compliance with or exemption from the Board's printing regulations from 1986 through November 11, 2011, a date or dates better known to Respondent, Diversified violated Section 218.404(d)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(d)(1) and, thereby, violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), and Section 218.404(d)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(d)(1);

3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), and Section 218.404(d)(1) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.404(d)(1);

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and its promulgated regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT V**

**FAILURE TO SUBMIT COMPLETE AND ACCURATE ANNUAL EMISSIONS REPORTS**

1-18. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 18 of Count I, as paragraphs 1 through 18 of this Count V.

19. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

20. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

21. Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill.

Adm. Code 254.137(a), provides as follows:

All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

22. Section 201.102 of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 201.102, provides the following definition:

"OWNER OR OPERATOR": any person who owns, leases, controls or supervises an emission source or air pollution control equipment.

23. Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm.

Code 211.1950, provides the following definition:

"EMISSION UNIT" means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

24. The 13 flexographic printing presses are "emission units," as that term is defined in Section 211.1950 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 211.1950.

25. Diversified was an "owner or operator" of emission units and emission sources required to timely submit complete Annual Emissions Reports ("AER") for each of the calendar years 1992 through and including 2010 by May 1 of the subsequent year.

26. By failing to timely submit an AER for each of the calendar years from 1992 through and including 2010, Diversified violated Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a).

27. By violating Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), Diversified, thereby, violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a);

3. Ordering the Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2010), Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 254.137(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.137(a);

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and its promulgated regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;

5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and

6. Granting such other relief as the Board deems appropriate and just.

**COUNT VI**

**FAILURE TO PAY CONSTRUCTION PERMIT FEES**

1-22. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 20 of Count I, and paragraphs 22 and 25 of Count V, as paragraphs 1 through 22 of this Count VI.

23. Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2010), provides as follows:

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

24. By failing to pay the applicable construction permit fees for the two flexographic printing presses and one die cutter constructed in the calendar year 2004, Diversified violated Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against the Respondent, DIVERSIFIED STEEL PROCESSING, LLC:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

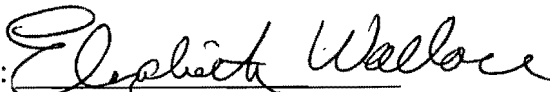
2. Finding that Respondent has violated Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Section 9.12(j) of the Act, 415 ILCS 5/9.12(j) (2010);

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each and every violation of the Act and its promulgated regulations, with an additional penalty of ten thousand dollars (\$10,000.00) for each day of violation;
5. Taxing all costs in this action, including, but not limited to, attorney, expert witness and consultant fees, against Respondent; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,  
LISA MADIGAN,  
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

By:   
ELIZABETH WALLACE, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:

Nancy J. Tikalsky  
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