

ORIGINAL

BEFORE THE POLLUTION CONTROL BOARD

RECEIVED
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MAY 29 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
PAMARCO, INC., a Maryland)
Corporation,)
)
Respondent.)

PCB 96 - 245
(Enforcement)

NOTICE OF FILING

TO: Mr. Gabriel Rodriguez
7200 Sears Tower,
Chicago, Illinois 60606

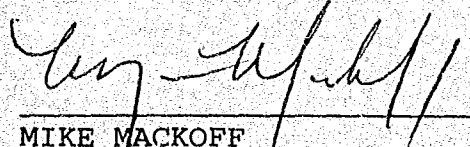
Mr. Robert A. Myers, Esq.
209 East 11th Avenue
Roselle, New Jersey 07203

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board a Complaint and Certificate of Service on behalf of the Illinois Environmental Protection Agency, a copy of which is attached and herewith served upon you.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

BY:



MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph St. - 11th Fl.
Chicago, IL 60601
(312) 814-2381

Date: May 29, 1996

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, complains of Respondent, PAMARCO, INC., as follows:

COUNT I

OPERATING A HAZARDOUS WASTE STORAGE AREA WITHOUT A PERMIT

1. This count is brought by the Attorney General of the State of Illinois, on his motion and at the request of the Illinois Environmental Protection Agency ("Agency"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (1994).

2. The Agency is an agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (1994), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times mentioned herein, Respondent, PAMARCO, INC.

("Pamarco"), a Maryland corporation, authorized to do business in Illinois, has been located at First and Waters Streets, Batavia, Kane County, Illinois, (the "facility").

4. At the facility, Respondent manufactures metal cylinders used in the printing, coating, and laminating industries.

5. During the manufacturing operation, Pamarco generates wastes including, but not limited to, metalizing spray waste, waste sulfuric acid, chromium and sodium hydroxide, copper plating solution, chrome plating solution, chromic acid sludge, cyanide solution, copper sulfate sludge with cyanide, sulfuric acid and tetrachloroethylene, chromic acid, grinding and polishing solution, and plating rinse.

6. On September 23, 1993, and February 10, 1994, the Agency conducted inspections of Pamarco's facility.

7. On September 23, 1993, Respondent was storing 1000 gallons of metalizing spray waste, nine (9) 55-gallon drums of spent copper plating solution, and one (1) 55-gallon drum of chromic acid at the facility.

8. Respondent stored the waste mentioned in paragraph 7 on-site for longer than 90 days.

9. Sections 21(f)(1) and (2) of the Act, 415 ILCS

5/21(f)(1) and (2) (1994), provide as follows:

No person shall:

f. Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

1. Without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
2. In violation of any regulations or standards adopted by the Board under this Act;

10. Section 721.102 of the Illinois Pollution Control Board's ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part, as follows:

Section 721.102 Definition of Solid Waste

- a) 1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.
- 2) A discarded material is any material which is:
 - A) Abandoned, as explained in subsection (b); or
 - B) Recycled, as explained in subsection (c); or

- C) Considered inherently waste-like, as explained in subsection (d).
- b) Materials are solid waste if they are abandoned by being:
 - 1) Disposed of; or
 - 2) Burned or incinerated; or
 - 3) Accumulated, stored or treated (but not recycled before or in lieu of being abandoned by being disposed of, burned or incinerated).

11. Section 721.103, 721.122, and 721.124 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 721.103, 721.122, and 721.124, provide, in pertinent part, as follows:

Section 721.103 Definition of Hazardous Waste

- a) A solid waste, as defined in Section 721.102, is a hazardous waste if:
 - 1) It is not excluded from regulation as a hazardous waste under Section 721.104(b); and
 - 2) It meets any of the following criteria:
 - A) It exhibits any of the characteristics of hazardous waste identified in Subpart C. . . .
 - B) It is listed in Subpart D and has not been excluded from the lists in Subpart D under 35 Ill. Adm. Code 720.120 and 720.122.

Section 721.122 Corrosivity Characteristic

- a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:
- 1) It is aqueous and has a pH less than or equal to 2 or greater than or equal to 12.5, as determined by a pH meter using either an EPA test method or an equivalent test method (35 Ill. Adm. Code 720.121). The EPA test methods for pH are specified as methods 9040, 9041, or 9045 in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", incorporated by reference in 35 Ill. Adm. Code 720.111.
 - 2) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55 [degrees Celsius (130 Degrees Fahrenheit)] as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-09 as standardized in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods", incorporated by reference in 35 Ill. Adm. Code 720.111 or an equivalent test method (35 Ill. Adm. Code 720.121).

BOARD NOTE: The corrosivity characteristic determination currently does not apply to non-liquid wastes, as discussed by USEPA at 45 Fed. Reg. 33109, May 19, 1980 and at 55 Fed. Reg. 22549, June 1, 1990.

- b) A solid waste that exhibits the characteristic of corrosivity has the EPA Hazardous Waste Number of D002.

Section 721.124 Toxicity Characteristic

- a) A solid waste exhibits the characteristic of toxicity if, using the test methods described in Appendix B or equivalent methods approved by the

Agency under the procedures set forth in Section 720.120 and 720.121, the extract from a representative sample of the waste contains any of the contaminants listed in the table in subsection (b) at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Appendix B, is considered to be the extract for the purposes of this Section.

- b) A solid waste that exhibits the characteristic of toxicity has the USEPA Hazardous Waste Number specified in the following table which corresponds to the toxic contaminant causing it to be hazardous.

USEPA Hazardous Waste Number	Contaminant	CAS No.	Regulatory Level Note (mg/l)
D007	Chromium	7440-47-3	5.0
D008	Lead	7439-92-1	5.0

12. The wastes described in paragraph 7 are solid wastes as that term is defined in 35 Ill. Adm. Code 721.102.

13. The wastes described in paragraph 7 are toxic and corrosive hazardous wastes with the EPA hazardous waste numbers D002, D007, D008.

14. Section 720.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 720.110, provides the following definitions:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water

so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

"Facility" means all contiguous land and structures, other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (e.g., one or more landfills, surface impoundments or combinations of them).

"Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of or stored elsewhere.

15. Section 702.110 of the Board's Waste Disposal

Regulations, 35 Ill. Adm. Code 702.110, provides the following definition:

"Hazardous waste management facility("HWM facility")" means all contiguous land, and structures, other appurtenances and improvements on the land used for treating, storing or disposing of "hazardous waste". A facility may consist of several "treatment", "storage" or "disposal: operational units (for example, one or more landfills, surface impoundments or combinations of them).

16. Section 703.121 of the Board's Waste Disposal

Regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

Section 703.121 RCRA Permits

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:

- 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or. . . .

* * *

17. Respondent stored the hazardous wastes described in paragraph 7 at its facility until such time as they were disposed of or stored elsewhere.

18. The holding of hazardous waste on-site prior to disposal of or storing elsewhere constitutes "storage", as that term is defined in 35 Ill. Adm. Code 720.110.

19. At all times relevant to this Complaint, the facility is a "hazardous waste management facility" as that term is defined in 35 Ill. Adm. Code 702.110.

20. Respondent was required by Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (1994), to obtain a RCRA permit in order to conduct a hazardous waste storage operation.

21. Respondent did not possess a RCRA permit to conduct a hazardous waste storage, disposal, or treatment operation.

22. By the actions described herein, Respondent has violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (1994), and 35 Ill. Adm. Code 703.121, by conducting a hazardous waste storage operation without a RCRA permit.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS,

respectfully requests that the Board enter an order in favor of Complainant and against Respondent on Count I, and:

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 21(f) (1) of the Act and 35 Ill. Adm. Code 721.103;

3. Ordering Respondent to cease and desist from any further violation of Section 21(f) (1) of the Act and 35 Ill. Adm. Code 721.103;

4. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day of the violation;

5. Assessing all costs against Respondent pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

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

COUNT II

FAILURE TO TRAIN PERSONNEL

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 and 17 through 19 of Count I as paragraphs 1 through 18 of this Count II.

19. Section 725.116 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.116, provides, in pertinent part, as follows:

Section 725.116 Personnel Training

- a) 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this Part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this Section . . .

* * *

20. On and before September 23, 1993, and continuing to at least February 10, 1994, Respondent failed to have its facility personnel complete hazardous waste management training, and failed to maintain training records for three years in violation of 35 Ill. Adm. Code 725.116 and Section 21(f) of the Act, 415 ILCS 5/21(f) (1994).

21. By the actions described herein, Respondent violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 725.116.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent on Count II, and:

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 Section 21(f) (2) of the Act and 35 Ill. Adm. Code 725.116(a);
3. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondent for each day of violation;
4. Assessing all costs against Respondent pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and
5. Granting such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO MAINTAIN A CONTINGENCY PLAN

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 and 17 through 19 of Count I as paragraphs 1 through 18 of this Count III.

19. Section 725.151 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 725.151, provides, in pertinent part, as follows:

Section 725.151	Purpose and Implementation of Contingency Plan
-----------------	---

- a) Each owner or operator must have a contingency plan for this facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.

20. Section 725.152 of the Board's Waste Disposal

Violations, 35 Ill. Adm. Code 725.152, provides, in pertinent part, as follows:

Section 725.152 Content of Contingency Plan

- a) The contingency plan must describe the actions facility personnel must take to comply with Sections 725.151 and 725.156 in response to fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water at the facility.

*

*

*

- e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm system (internal and external) and decontamination equipment) where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities.

- f) The plan must include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes and alternate evacuation routes (in cases where the primary

routes could be blocked by releases of hazardous waste or fires).

21. On and before September 23, 1993, and continuing to at least February 10, 1994, Respondent owned and operated a hazardous waste storage facility without a contingency plan that was designed to minimize hazards to human health and the environment in violation of 35 Ill. Adm. Code 725.151.

22. On and before September 23, 1993, and continuing to at least February 10, 1993, Respondent owned and operated a hazardous waste storage facility and had a contingency plan that; failed to describe the actions personnel must take to respond to releases, failed to include a list of all emergency equipment, the location of each piece of equipment, and a brief outline of its capabilities, and failed to identify evacuation routes, in violation of 35 Ill. Adm. Code 725.152.

23. By the actions described herein, Respondent violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 725.151 and 725.152.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent on Count III, and:

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 Section 21(f)(2) of the Act and 35 Ill. Adm. Code 725.151 and 725.152;

3. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondents for each day of violation;

4. Assessing all costs against Respondent pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

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

COUNT IV

FAILURE TO MAINTAIN RECORDS

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 and 17 through 19 of Count I as paragraphs 1 through 18 of this Count IV.

19. Section 722.140 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 722.140, provides, in pertinent part, as follows:

Section 722.140 Recordkeeping

- a) A generator must keep a copy of each manifest signed in accordance with Section 722.123(a) for three years or until he receives a signed copy

from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

* * *

20. Section 702.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.110, provides the following definition:

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

21. Respondent is a "generator" as that term is defined in 35 Ill. Adm. Code 702.110.

22. Respondent failed to keep signed copies of manifest numbers IL4508156 and IL4508153, dated December 30, 1991, and July 1, 1991, respectively, in violation of 35 Ill. Adm. Code 722.140.

23. By the actions described herein, Respondent violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 722.140.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent on Count IV, and:

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 Section 21(f)(2) of the Act and 35 Ill. Adm. Code 722.140;

3. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondents for each day of violation;

4. Assessing all costs against Respondent pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

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

COUNT V

IMPROPER LAND RESTRICTION ANALYSIS AND RECORDKEEPING

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 and 17 through 19 of Count I as paragraphs 1 through 18 of this Count V.

19. Section 728.101(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.101(b), provides as follows:

Section 728.101 Purpose, Scope and Applicability

- b) Except as specifically provided otherwise in this Part or 35 Ill. Adm. code 721, the requirements of this Part apply to persons who generate or transport hazardous waste and to owners and operators of hazardous waste treatment, storage

and disposal facilities.

20. Section 702.110 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 702.110, provides the following definition:

"Generator" (RCRA) means any person, by site location, whose act or process produces "hazardous waste" identified or listed in 35 Ill. Adm. Code 721.

21. Respondent is a "generator" as that term is defined in 35 Ill. Adm. Code 702.110.

22. Section 728.107 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.107, provides, in pertinent part, as follows:

Section 728.107 Waste Analysis and
 Recordkeeping

- a) Except as specified in Section 728.132, where a generator's waste is listed in 35 Ill. Adm. Code Subpart D, the generator shall test the generator's waste, or test an extract developed using the test method described in 35 Ill. Adm. Code 721. Appendix B, or use knowledge of the waste, to determine if the waste is restricted from land disposal under this Part. Except as specified in Section 728.132, if a generator's waste exhibits one or more of the characteristics set out at 35 Ill. Adm. Code 721. Subpart C, the generator shall test an extract using the test method described in 40 C.F.R. 268. Appendix IX (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test (SW-846. Method 1310(A)) as incorporated by reference in 35 Ill. Adm. Code 720.111, or use knowledge of the waste, to determine if the waste is restricted from land

disposal under this Part. If the generator determines that his waste displays the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by INCIN, FSUBS, or RORGS of Section 728. Table C of this Part), or the characteristic of corrosivity (D002), and is prohibited under Section 728.137, the generator must determine what underlying hazardous constituents (as defined in Section 728.102 of this Part), are reasonably expected to be present in the D001 or D002 waste.

- 1) If a generator determines that the generator is managing a restricted waste under this Part and determines that the waste does not meet the applicable treatment standards set forth in Subpart D of this Part or exceeds the applicable prohibition levels set forth in Section 728.132 or 728.139, with each shipment of waste the generator shall notify the treatment or storage facility in writing of the appropriate treatment standard set forth in Subpart D of this Part and any applicable prohibition levels set forth in Section 728.132 or 728.139. The notice must include the following information: . . .

* * *

- 7) Generators shall retain on-site a copy of all notices, certifications, demonstrations, waste analysis data and other documentation produced pursuant to this Section for at least five years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment storage or disposal. The five year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Agency. The requirements of this subsection apply to

solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 35 Ill. Adm. Code 721.102 through 721.106, or exempted from regulation as a RCRA hazardous waste subsequent to the point of generation.

23. On or before September 23, 1993 and continuing through at least February 10, 1994, Respondent failed to determine whether certain generated wastes were restricted from land disposal in violation of 35 Ill. Adm. Code 728.107(a).

24. On or before September 23, 1993 and continuing through at least February 10, 1994, Respondent failed to send a land disposal restriction ("LDR") notice with the hazardous waste shipment identified in manifest no. IN0622026, in violation of 35 Ill. Adm. Code 728.107(a)(1), and failed to maintain a copy of that LDR notice in violation of 35 Ill. Adm. Code 728.107(a)(7).

25. On or before September 23, 1993 and continuing through at least February 10, 1994, Respondent failed to provide all necessary information on the LDR notices that accompanied hazardous waste shipments identified in manifest nos. INA0721691, INA07210692, and IL 3054912, in violation of 35 Ill. Adm. Code 728.107.

26. By the actions described herein, Respondent violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35

Ill. Adm. Code 728.107.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent on Count V, and:

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 Section 21(f)(2) of the Act and 35 Ill. Adm. Code 728.107;

3. Assessing a civil penalty of Twenty Five Thousand Dollars (\$25,000.00) against Respondents for each day of violation;

4. Assessing all costs against Respondent pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

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

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN
Attorney General
State of Illinois

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

By:



WILLIAM D. SEITH, Chief
Environmental Bureau

Assistant Attorney General

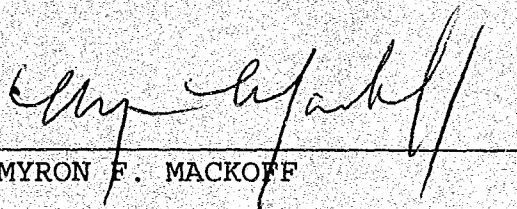
Of Counsel:

MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph St. - 11th Fl.
Chicago, IL 60601
(312) 814-2381

c:pamarcol.doc

CERTIFICATE OF SERVICE

I, MYRON F. MACKOFF, an Assistant Attorney General in this case, do certify that I caused to be mailed this 29th day of May, 1996, the foregoing Notice of Filing and Complaint upon the person listed on said Notice by certified mail in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



MYRON F. MACKOFF