

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of )  
)  
One Management, Inc., )  
L&J Investment, Inc., and )  
One Management Investment Group )  
)  
Respondent )

Docket No. TSCA-05-2008-0012

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**Order on EPA Motion regarding Prehearing Order**

On April 30, 2009, EPA filed a motion stating that the Respondents had failed to comply with this Court's Prehearing Order and seeking certain remedies for that failure, including default. Respondents filed a response in opposition on May 22<sup>nd</sup>, admitting that they had not complied with the prehearing order, but asserting a host of excuses for that failure and claiming that some aspects of the order, had been provided to EPA. Respondents seek an out of time extension to comply with the prehearing order, allowing them until June 26, 2009 to comply. Thereafter, EPA filed a reply, taking issue with Respondents' claim that there had been partial compliance, remaining neutral on Respondents' late request for an extension of time to comply with the prehearing order but ultimately not insisting on the sanctions sought in its motion.

It is clear that the Respondents did not comply with this Court's prehearing order. Counsel is expected to be familiar with, and to follow, the Procedural Rules. 40 C.F.R. Part 22. Those rules include the duty to timely respond to Orders issued by the Presiding Officer or risk default. None of the various excuses offered up by the Respondents' Counsel justify the failure to comply with this Court's Order. Although Respondents relate that their "principal defense" involves an "inability to pay the penalties and fines," this does not justify the failure to comply with the Order. Further, Respondents are not acting *pro se*; they have legal counsel, so there is no assertion that their obligations were not understood.

However, upon consideration, the Court will exercise its discretion and afford the Respondents relief from default in this instance. Respondents are directed to *fully* comply with this Court's Prehearing Order, no later than June 26, 2009. The Respondents are also advised that any future failures to fully comply with the Court's Orders will not be viewed favorably.

William B. Moran  
William B. Moran  
United States Administrative Law Judge

Dated: June 10, 2009  
Washington, DC

In the Matter of One Management, Inc., L & J Investment, Inc., and One Management Investment Group  
Respondent  
Docket No. TSCA-05-2008-0012

**CERTIFICATE OF SERVICE**

I certify that the foregoing **Order on EPA's Motion**, dated June 10, 2009, was sent this day in the following manner to the addressees listed below:

**Original and copy by pouch mail to:**

Ladawn Whitehead  
Regional Hearing Clerk  
U.S. EPA  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

**Copy by regular mail to:**

Attorney for Complainant:

Mary McAuliffe, Esq.  
Assistant Regional Counsel  
U.S. EPA  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Respondent:

Michael Perry, Esq.  
Fraser Trebilcock Davis & Dunlap, PC  
124 West Allegan, Suite 1000  
Lansing, MI 48933

  
\_\_\_\_\_  
Knolyn R. Jones  
Legal Staff Assistant

Dated: June 10, 2009  
Washington, DC

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