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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

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In the Matter of:) Docket No. CAA-05-2008-0037
)
Wisconsin Plating Works of Racine, Inc.) Proceeding to Assess a Civil Penalty
Racine, Wisconsin) Under Section 113(d) of the Clean Air
) Act, 42 U.S.C. § 7413(d)
Respondent.)
_____)

COMPLAINANT'S REBUTTAL PREHEARING EXCHANGE

Padmavati Bending, Counsel for Complainant, Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, Chicago, Illinois, in accordance with this Court's Prehearing Order of December 4, 2008, submits the following Rebuttal Prehearing Exchange pursuant to Section 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits codified at 40 C.F.R. Part 22.

1. The names of the expert and other witnesses intended to be called at hearing, identifying each as a fact witness or an expert witness, with a brief narrative summary of their expected testimony, or a statement that no witnesses will be called.

In addition to the witnesses listed in Complainant's Initial Prehearing Exchange filed on January 15, 2009, U.S. EPA may call any or all of the following individuals as witnesses in the hearing in this matter:

- 1. Gail B. Coad, Principal, Industrial Economics, Incorporated, 2067 Massachusetts Avenue, Cambridge, MA 02140 (expert witness)**

Ms. Coad is a Principal of Industrial Economics, Incorporated, a consulting firm located at 2067 Massachusetts Avenue, Cambridge, Massachusetts 02140. Ms. Coad may be called to testify as an expert witness in the areas of the forensic analysis of

financial information and analysis of Respondent's ability to pay. She has been qualified as an expert in these areas in both administrative hearings before the United States Environmental Protection Agency's Office of Administrative Law Judges and in trials before federal district courts. Ms. Coad's Resume, which is attached as Complainant's Exhibit No. 16, identifies the cases in which she has provided testimony. Ms. Coad may testify about her review of a Dun and Bradstreet Report concerning Respondent (previously submitted as Complainant's Exhibit No. 12). Ms. Coad may testify about her assessment of the sufficiency or reliability of any financial information submitted by Respondent, and she may identify other categories of information or areas of inquiry that are relevant to an assessment of Respondent's ability to pay. Ms. Coad may also provide her expert opinions and conclusions as to Respondent's financial status and ability to pay the penalty proposed in the Complaint based on the documentation available from Respondent and her independent research.

More specifically, if called to testify as an expert witness at the hearing in this matter, Ms. Coad may testify about her work at Industrial Economics, Inc., an economics and environmental consulting firm, providing consulting work on various subjects, including (but not limited to) expert witness services in environmental enforcement litigation; performing regulatory impact analyses for governmental agencies; evaluating complex business organizations and the related party interactions, providing historical analyses of the evolution of a business in a litigation context, evaluating the criteria supporting piercing the corporate veil, providing technical litigation support in the areas of economics and business performance in damages claims, performing financial analyses in enforcement cases to determine economic benefit from noncompliance; and

assessing the ability to pay of corporations, partnerships and individuals in enforcement cases. She may also testify as to her experience in evaluating the financial situation and ability to pay of various types of entities for cases litigated before administrative tribunals and federal district courts. Ms. Coad has performed analyses of ability to pay in more than 150 cases during her tenure with Industrial Economics, Inc. She has assessed the ability to pay of many different types of entities, ranging in size from large multinational corporations to small businesses to individuals, and involving all types of business activities (e.g., real estate, agriculture, manufacturing, utilities, chemical companies, wood products, and food companies).

Ms. Coad may also testify about her efforts to analyze the financial status and ability to pay of the Respondent in this case. She may testify about the standard methodology used by professionals in his field to evaluate the financial status and ability to pay of individuals/corporations/partnerships. Ms. Coad may testify about the different types of financial documentation, and the extent of such financial data, that are necessary to conduct any reasonably accurate assessment of a respondent's financial condition and ability to pay, including the reasons why at least three years of complete tax returns and complete financial statements are needed to begin any meaningful evaluation of a company's ability to pay. She may testify about the need in any ability to pay analysis to identify potential sources of funds and the need to fully and accurately identify the party's expenses and assess whether or not all such expenses are reasonable. Ms. Coad may testify that analyzing ability to pay also necessarily involves an analysis of the net worth of the individual or party, which entails an accurate and complete identification of all assets (including real estate and personal property) and liabilities. She may testify

about her assessment of the sufficiency or reliability of financial information which may be submitted by Respondent, and she may identify other categories of information or areas of inquiry that are relevant to an assessment of Respondent's ability to pay.

Complainant respectfully reserves the right to not call any of the above-listed witnesses at hearing. Complainant further respectfully reserves its right to amend, supplement, and modify its witness list and to call additional witnesses on its behalf. In addition, Complainant respectfully reserves the right to expand, or otherwise modify the scope, extent, and areas of testimony of any of these witnesses where appropriate.

Should Complainant make any of the modifications described in the preceding paragraph, Complainant shall, by filing an Amendment to this Prehearing Exchange, provide the Presiding Officer and the Respondent a reasonable opportunity to review the new or revised witness list. Such changes may be occasioned by the discovery of new evidence or witnesses, the unavailability of one or more witnesses, prehearing stipulations of fact between the parties, rulings on motions, or for any other legitimate purpose.

2. Copies of all documents and exhibits intended to be introduced into evidence. Included among the documents produced shall be a curriculum vita or resume for each identified expert witness. The documents and exhibits shall be identified as Complainant's or Respondent's exhibit, as appropriate, and numbered with Arabic numerals (e.g, CX 1 or RX 2).

In addition to the documents provided by Complainant and Respondent in their respective prehearing exchanges, Complainant expects to offer the following documents into evidence:

1. COMPLAINANT'S EXHIBIT 15

September 15, 2008 letter Re: Notice of Intent to File Civil Administrative Complaint Against Wisconsin Plating Works of Racine, Inc.

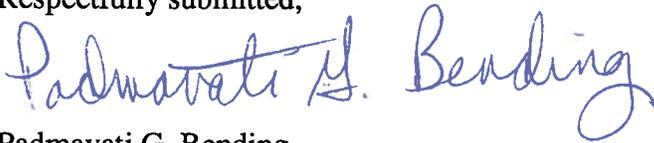
2. COMPLAINANT'S EXHIBIT 16

Resume of Gail B. Coad, Industrial
Economics, Inc.

Reservation of Rights.

Complainant respectfully reserves the right to supplement its list of witnesses, its list of exhibits, and/or its responses to the Prehearing Order Requests, upon reasonable notice to Wisconsin Plating Works of Racine, Inc., and to this Honorable Court.

Respectfully submitted,



Padmavati G. Bending
Associate Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency,
Region 5
77 West Jackson Boulevard (C-14J)
Chicago, Illinois 60604-3590
Tel. No. (312) 353-8917
Fax No. (312) 582-5154

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CERTIFICATE OF SERVICE

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I hereby certify that today I filed personally with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard (E-13J), Chicago, Illinois, 60604-3590, the original document and a copy entitled Rebuttal Prehearing Exchange for this civil administrative action, and that I issued to the Court (via pouch mail) and Respondent's Counsel (via first class mail) a copy of the original document:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Christopher T. Nowatarski
Stone, Pogrund and Korey, LLC
1 East Wacker Drive, Suite 2610
Chicago, IL 60601

Mildred Vargas
Mildred Vargas
Secretary

March 5, 2009
Date