

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

RECEIVED  
REGIONAL HEARING CLERK  
2008 JUL 21 11:39

IN THE MATTER OF: )  
 )  
Libra Industries, Inc., )  
 )  
 ) DOCKET NO. EPCRA-05-2008-0005  
 )  
Respondent. )  
\_\_\_\_\_ )

**REPORT OF CONFERENCE CALL**

On Friday, July 18, 2008, I convened a conference call in this matter with counsel for Complainant, Ann L. Coyle, and counsel for Respondent, Max E. Dehn. I advised counsel that a review of the docket in this matter indicates:

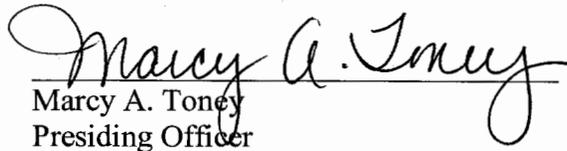
1. An administrative complaint pursuant to the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. §§ 11001 to 11050, was filed by Complainant on January 3, 2008;
2. The Complaint was received by Respondent on January 7, 2008;
3. Respondent served an answer on the Regional Judicial Officer and Complainant's counsel on February 8, 2008. The answer was not filed with the Regional Hearing Clerk;
4. Respondent filed a Motion to File Answer Instantly, and Answer, with the Regional Hearing Clerk on June 30, 2008. A copy of the motion was served on Complainant's counsel, but not on the Regional Judicial Officer;
5. On July 7, 2008, the Region 5 Regional Hearing Clerk forwarded a copy of the complaint and answer to the Office of Administrative Law Judges (OALJ) and requested that an Administrative Law Judge be assigned to conduct a hearing;
6. On July 7, 2008, Complainant filed a Motion for Default;
7. On July 8, 2008, Chief Administrative Law Judge Susan L. Biro sent the parties a letter offering an Alternative Dispute Resolution (ADR) process and asking them to advise her office by July 22, 2008, whether they wish to accept this offer;
8. On July 11, 2008, Complainant filed a Supplemental Motion for Default; and
9. On July 17, 2008, the Regional Judicial Officer received a copy of Respondent's Motion to File Answer Instantly and attached answer.

While Respondent has filed a motion requesting permission to file its answer, it has not been granted permission to do so. Thus, the matter should not have been forwarded to the OALJ for assignment to an Administrative Law Judge. There are three pre-answer motions now pending. I have consulted with the Senior Staff Attorney to the Office of Administrative Law Judges, and have determined that the matter is not properly before the OALJ at this time. In accordance with 40 C.F.R. § 22.4(b), the undersigned Regional Judicial Officer will act as the Presiding Officer until these pending motions are resolved.

Because this case is not properly before the OALJ at this time, counsel should disregard the July 8, 2008, letter from Judge Biro offering ADR.

My review of the record indicates that Respondent's counsel has missed at least one filing deadline and failed to properly serve the Presiding Officer with a motion. I reviewed with counsel certain provision of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, which govern this proceeding. I further advised counsel that compliance with the Consolidated Rules is essential for the fair and orderly resolution of administrative enforcement matters and that full compliance is expected going forward.

Date: July 21, 2008

  
Marcy A. Toney  
Presiding Officer

RECEIVED  
REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
877 JUL 21 2008 1:39

IN THE MATTER OF Libra Industries, Inc.,  
Docket No. EPCRA-05-2008-0005

CERTIFICATE OF SERVICE

I certify that the foregoing Report of Conference Call, dated July 21, 2008, was sent this day in the following manner to the addressees:

Original hand delivered to:

Regional Hearing Clerk  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Copy hand delivered to  
Attorney for Complainant:

Ann L. Coyle  
U.S. Environmental Protection  
Agency, Region 5  
Office of Regional Counsel  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

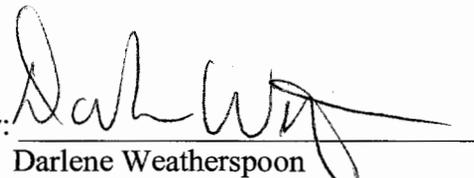
Copy by first class mail and  
fax (216) 621-3415 to:

Harold O. Maxfield, Jr.  
Max E. Dehn  
Cavitch Familo Durkin & Frutkin  
Fourteenth Floor  
1717 East Ninth Street  
Cleveland, OH 44114-2876

Dated:

7/21/08

By:

  
Darlene Weatherspoon  
Administrative Program Assistant