STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES

In re: Richard Bruce, S.S.I.

Petition Nos. 970909-033-016
970910-033-017
980821-033-008
980831-033-009

CONSENT ORDER

WHEREAS, Richard Bruce of Wilton, CT (hereinafter "respondent") has been issued license number 002531 to practice as a subsurface sewage disposal system installer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 393a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. At all times in question, respondent owned and/or co-owned a subsurface sewage installation company, Al Dexter Septic and Drainage Systems, Inc. (hereinafter "Dexter").
2. During the Spring of 1997, while working as a subsurface sewage disposal system installer at 11 Bob White Drive, Westport, Connecticut (hereinafter "the Westport property"), respondent negligently and/or incompetently advised the owners that the leaching system needed to be repaired and that a professional engineer needed to prepare a plan for said repair.
3. Subsequently, the owners of the Westport property were informed by the local sanitarian and by Mr. James Palmer, a professional engineer, that the leaching system did not require a repair as there was no indication that the system was failing.

4. During the Spring of 1997, while working as a subsurface sewage disposal system installer at 18 Cobblers Lane, Ridgefield, Connecticut (hereinafter "the Ridgefield property"), respondent incompetently and/or negligently replaced the leaching system as follows:

   a. he failed to locate the replacement leaching system entirely within the property served. Subsequently, the Ridgefield property was surveyed and said survey revealed that the replacement leaching system encroached on the abutting property by approximately one foot. As a result of said encroachment, respondent had to relocate one of the leaching trenches; and/or

   b. he failed to properly protect a leaching trench with filter fabric. Subsequently, he dug up the trench to correct said failure.

5. In or about the Summer of 1998, while working as a subsurface sewage disposal system installer at 13 Bittersweet Road, Weston, Connecticut (hereinafter "the Weston property"), respondent incompetently and/or negligently advised the owners that the leaching system was at the very end of its useful life.

6. Subsequently, after the installation of a new system, the owners of the Weston property were informed by the local sanitarian that the old system had not reached the very end of its useful life and had been properly operating.

7. In or about the Summer of 1998, respondent negligently and/or incompetently inspected a subsurface sewage disposal system at 97 Old Boston Road, Wilton, Connecticut (hereinafter "the Wilton property") in that he determined that the owner's existing septic system needed to be replaced, at an estimated cost of $26,000.00. Respondent made said determination based solely on a visual inspection of the Wilton property and without conducting any testing or physical inspection of the existing septic system.

8. Subsequently, the owners of the Wilton property obtained the opinion of another septic system installer, who determined that a pipe connecting the septic tank to the distribution box had been cut or broken during the installation of an underground water sprinkler system. The broken pipe was repaired, at a cost of $150.00, by the second septic system installer, who determined that the system serving the Wilton property appeared to be "in like new condition."

9. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-341f(d), taken in conjunction with Section 19-13-B103d(d) and Technical Standard, Section VIII(A) of the Regulations, Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14 and 20-341f(d) of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-341f(d) of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license number 002531 to practice as a subsurface sewage disposal system installer in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of two-thousand dollars ($2,000.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.

4. Respondent's license shall be placed on probation for a period of one year under the following terms and conditions:

   a. Respondent shall obtain, at his own expense, the services of a supervisor, pre-approved by the Department (hereinafter "supervisor"), to conduct a review of his next five (5) subsurface sewage disposal system installations, modifications and/or repairs.

      (1) The supervisor shall have the right to monitor respondent's work by any reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.

      (2) Respondent shall be responsible for providing written supervisor reports directly to the Department and local health departments where such work is performed for each of the five (5) subsurface sewage disposal system installations. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, a general description of the work reviewed, documentation that respondent was present and supervising during the installation, modification and/or repair of the subsurface sewage disposal system, additional monitoring techniques utilized, and a statement that respondent completed the subsurface sewage disposal system work in compliance with all applicable local and state laws and regulations.

      (3) The supervisor may be an employee or sub-contractor of respondent.

   b. Respondent shall comply with all statutes and regulations applicable to his licensure including, but not limited to:

(1) viewing individual plans on file at the office of the local Director of Health prior to commencing performance on any installation, modification, extraction or repair contract;

(2) acquiring all requisite permits, submitting a plan, and obtaining approval to construct as required by regulation; and,

(3) notifying the local Director of Health or his/her agent twenty-four (24) hours prior to commencing performance on any installation, modification, extraction or repair contract.

c. Not less than twenty-four (24) hours prior to commencement of any installation, modification, extraction, and/or repair for which he is responsible, respondent shall obtain from the local Director of Health or his/her agent and provide to the Department, a copy of the work permit notice.

d. Respondent shall obtain the written approval to construct from the local Director of Health or his/her agent for each and every subsurface sewer installation, modification, extraction and/or repair for which he is responsible, and to provide them to the Department not less than one (1) week from the date of receipt of the written approval to construct.

e. The local Director of Health or his/her agent shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the local Director of Health or his/her agent in providing such monitoring.

f. Every local Director of Health in such districts in which respondent is conducting business shall be provided with a copy of this Consent Order within fifteen (15) days of its effective date. Such local Director(s) of Health shall provide written

confirmation to the Department acknowledging receipt and review of the Consent Order.

g. Respondent further agrees that if the probationary period has terminated prior to the completion of five (5) subsurface sewage disposal system installations, modifications and/or repairs, the probationary period shall be extended to ensure completion of same. If the probationary period is extended to comply with this provision, all other terms and conditions of probation shall be extended.

h. During the probationary period provided in this Consent Order, or any extension thereof, respondent shall continue to comply with the terms and conditions contained in paragraph 2 on page 4 of that certain Final Decision rendered in Petition No. 951204-033-010, on or about December 29, 1997.

5. All correspondence and reports are to be addressed to:

Frank Schaub, Supervising Sanitary Engineer
Department of Public Health
410 Capitol Avenue, MS #51SEW
P.O. Box 340308
Hartford, CT 06134-0308

6. All reports required by the terms of this Consent Order shall be due within ten business days of completion of work.

7. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

8. Respondent shall pay all costs necessary to comply with this Consent Order.

9. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:

a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.

b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.

c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.

d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.

e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

10. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a subsurface sewage disposal system installer, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action,

respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).

11. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.

12. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.

13. This Consent Order is effective on the day it is approved and entered by the Department.

14. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with §20-341f of the General Statutes of Connecticut, as amended, is at issue.

15. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.

16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

17. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.

18. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.

19. Respondent has the right to consult with an attorney prior to signing this document.

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I, Richard Bruce, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Richard L. Bruce

Richard Bruce

Subscribed and sworn to before me this 7th day of June 1999.

Steven G Bera

Notary Public or person ~~authorized~~ by law to administer an oath or affirmation

Steven G Bera Commissioner for Superior Courts

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 18th day of June 1999, it is hereby accepted.

Thomas H. Furgalack

Thomas Furgalack, Director
Division of Environmental Health

s:llf/bruce/co3
5/99