

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: James Benjamin, S.S.I.

Petition No. 970112-033-006

**CONSENT ORDER**

WHEREAS, James Benjamin of North Franklin, CT (hereinafter "respondent") has been issued license number 003612 to practice as a subsurface sewage systems installer by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 393a of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. In November of 1996, and subsequent thereto, while working on property located at 46 Richard Ave. in Griswold, CT respondent failed to obtain approval and permits from the local health department prior to removing a septic tank.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-341f.

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 of Public Health (hereinafter "the Department"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-14 and 20-341f of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and 20-341f 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 shall pay a civil penalty of five hundred dollars (\$500) 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.
3. Respondent's license shall be placed on probation for a period of two years under the following terms and conditions:
  - a. 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.
  - b. The Department 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 Department in providing such monitoring.
4. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.

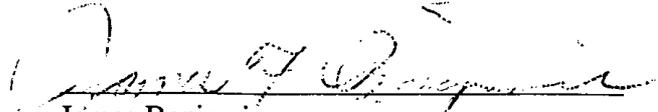
5. Respondent shall pay all costs necessary to comply with this Consent Order.
6. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that 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 6a 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.
7. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a subsurface sewage systems 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).

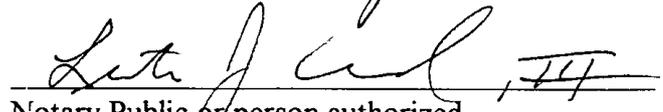
8. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
9. In the event respondent is not employed as a subsurface sewage systems installer for periods of thirty (30) consecutive days or longer, or is employed as a subsurface sewage systems installer less than twenty (20) hours per week, or is employed outside of the State of Connecticut, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.
10. 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.
11. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
18. Respondent has the right to consult with an attorney prior to signing this document.

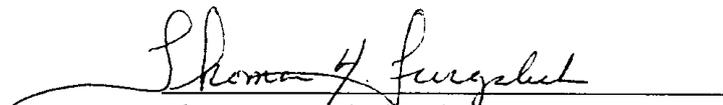
I, James Benjamin, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

  
James Benjamin

Subscribed and sworn to before me this 11<sup>th</sup> day of May 1998.

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

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 18<sup>th</sup> day of MAY 1998, it is hereby ordered and accepted.

  
Thomas Furgalack, Director  
Division of Environmental Health

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