

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

In re: Robert Bertollette

Petition No. 2005-0408-042-003

**CONSENT ORDER**

WHEREAS, Robert Bertollette of Farmington, CT (hereinafter "respondent") has been issued license number 000048 to practice as an asbestos consultant - project monitor by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 400a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. On or about February 17 and/or March 5, 2004, respondent performed a final visual inspection and conducted post abatement reoccupancy air sampling for two (2) work areas in connection with an asbestos abatement project at 234-238 State Street, New London, CT (hereinafter "the New London property"). Said asbestos abatement project included the removal of approximately 275 square feet of asbestos pipe insulation.
2. On or about February 17 and/or March 5, 2004, respondent failed to ensure that the asbestos abatement project at the New London property was properly completed by the asbestos contractor in that respondent failed to ensure there was no visible residue in each of the work areas before collecting post abatement air samples. On or about March 9, 2004, during a Department inspection of the work areas at the New London property, a Department investigator observed visible residue remaining in the work areas, including visible residue on pipe hangers, pipe joints and in the immediate vicinity of piping systems that the asbestos contractor had abated as part of the project at the New London property.

The Department investigator collected samples of said debris, which were subsequently analyzed and determined to contain asbestos.

3. On or about August 20, 2004, respondent performed a final visual inspection and conducted post abatement reoccupancy air sampling in connection with an asbestos abatement project at 1265 Fairfield Beach Road, Fairfield, CT (hereinafter “the Fairfield property”). Said asbestos abatement project included the removal of asbestos flooring materials and asbestos transite shingles, in connection with the demolition of a single family residence on the property.
4. On or about August 20, 2004, respondent failed to ensure that the asbestos abatement project at the Fairfield property was properly completed by the asbestos contractor in that respondent failed to ensure there was no visible residue in the work area before collecting post abatement air samples. On or about August 26, 2004, during a Department inspection of the Fairfield property, a Department investigator observed visible residue remaining in the work area, including loose floor tile and transite debris. The Department investigator collected samples of said debris, which were subsequently analyzed and determined to contain asbestos.
5. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §§19a-332 and 19a-332a of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2, 19a-332a-5(g), 19a-332a-12, 20-440-1, 20-440-3(a), 20-440-3(b)(4) and/or 20-440-6 of the Regulations of 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 Chapter 400a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and Chapter 400a 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 000048 to practice as an asbestos consultant – project monitor in the State of Connecticut shall be suspended for a period of forty-five (45) days, commencing on October 17, 2005.
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. All correspondence is to be addressed to:

Ron Skomro, Supervising Environmental Analyst  
Department of Public Health  
410 Capitol Avenue, MS #51AIR  
P.O. Box 340308  
Hartford, CT 06134-0308

5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. 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 7a 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.
8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an asbestos consultant – project monitor, 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 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).

9. 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.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to Practitioner Licensing and Investigations Section of the Healthcare Systems Branch of the Department.
11. This Consent Order is effective on the date this Consent Order is accepted 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 Chapters 4001 or 3681 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 Healthcare Systems Branch 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 has the right to consult with an attorney prior to signing this document.
18. The execution of this document has no bearing on any criminal liability without the written consent of the Director of the Medicaid Fraud Control Unit or the Bureau Chief of the Division of Criminal Justice's Statewide Prosecution Bureau.

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I, Robert Bertolette, 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.



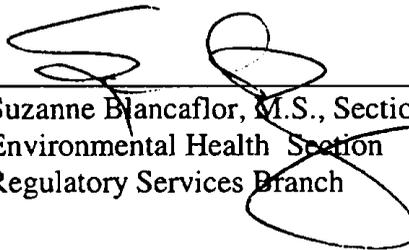
Robert Bertolette

Subscribed and sworn to before me this 29<sup>th</sup> day of September 2005.

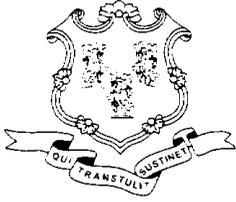


Notary Public or person authorized  
by law to administer an oath or affirmation  
MY COMMISSION EXPIRES: 3/31/05

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 6<sup>th</sup> day of October 2005, it is hereby accepted.



Suzanne Blancaflor, M.S., Section Chief  
Environmental Health Section  
Regulatory Services Branch



# STATE OF CONNECTICUT

## DEPARTMENT OF PUBLIC HEALTH

December 13, 2005

Mr. Robert Bertollette  
82 Ely Road  
Farmington, CT 06032

Re: Consent Order - Petition No. 2005-0408-042-003

Dear Mr. Bertollette:

Please accept this letter as notice that you have satisfied the terms of the Consent Order associated with the referenced Petition involving your asbestos consultant (Project Monitor) license. It is noted that you self-disclosed to the Department of Public Health (DPH) that you provided project monitoring services on November 28 and 29, 2005. Given this fact, it is the understanding of the DPH that you voluntarily abstained from providing project monitoring services on December 1 and 2, 2005.

Notice will be sent to the DPH's Licensure and Registration Section to remove all restrictions from your Project Monitor license related to the referenced Consent Order.

Please be certain to retain this letter as documented proof that you have completed your suspension period of forty-five (45) days.

Thank you for your cooperation during this process.

Sincerely yours,

A handwritten signature in cursive script that reads "Ronald Skomro".

Ronald Skomro  
Supervising Environmental Sanitarian  
Environmental Health Section  
Asbestos Program

cc: Leslie Cole  
Janine Cordero  
Petition File

