

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

In re: Dariusz Czarnota

Petition No. 2001-0117-042-001

CONSENT ORDER

WHEREAS, Dariusz Czarnota, employed by EnviroScience Consultants, Inc. of Newington, CT (hereinafter "respondent") has been issued license number 000349 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, respondent admits that:

1. In or about December 2000, respondent was the licensed asbestos consultant – project monitor for an asbestos abatement project at 16-18 Amity Street, Hartford, CT (hereinafter “the property”). The asbestos abatement project involved the removal of asbestos containing materials from a fire damaged structure on the property, in accordance with an alternative work practice application filed by respondent’s employer, on or about June 8, 2000.
2. Respondent was at the property from on or about December 7, 2000 through December 18, 2000 performing asbestos consultation services that involved monitoring the activities of Briteside, Inc., the asbestos contractor of record for the project.
3. Subsequently, on or about December 11, 2000, in connection with the monitoring services performed by respondent at the property, respondent:

- a. failed to determine that two of the asbestos contractor's workers did not have current certificates issued by the Department, allowing such workers to work as an asbestos abatement worker and/or an asbestos abatement site supervisor;
 - b. failed to ensure that the asbestos contractor placed all asbestos containing waste in leak-tight containers and labeled such containers with applicable warning and/or generator information in that a Department investigator observed that asbestos containing waste had been directly loaded into an open top trailer. The trailer was not lined with polyethylene sheeting and there were no asbestos warning signs on the trailer;
 - c. failed to ensure that there was a source of water on site to continually mist materials during demolition activities and to adequately wet all asbestos containing waste prior to packaging for disposal;
 - d. failed to ensure that work area access was restricted to authorized personnel afforded proper respiratory protection and protective clothing in that the driver of the equipment used to move the materials at the site was not wearing a respirator or a tyvek suit;
 - e. failed to ensure that the work area was equipped with decontamination facilities so that no person or equipment leaves the work area unless first decontaminated by showering, wet washing or high efficiency particulate air vacuuming to remove all asbestos debris; and
 - f. failed to ensure that a regulated work area was established by the use of barrier tape and asbestos warning signs, as required by the alternative work practice procedure approved by the Department for the property.
4. 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(a), 19a-332a-5(f), 19a-332a-5(j), 19a-332a-5(k), 19a-332a-6, 19a-332a-7(a), 19a-332a-11, 20-440-1, 20-440-3(a), 20-440-3(b)(4)(A) and/or 20-440-5(a) of the Regulations of Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest this matter and 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, taken in conjunction with §20-440-6(b) of the Regulations of Connecticut State Agencies, 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 three hundred and seventy-five dollars (\$375.00) 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.
3. Respondent's license number 000349 to practice as an asbestos consultant – project monitor shall be placed on probation for a period of thirty (30) days under the following terms and conditions:
 - a. Respondent shall provide his employer with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment with a new employer.
 - b. Respondent's employer shall furnish written confirmation to the Department of receipt of a copy of this Consent Order within fifteen days of receipt.

- c. During the period of probation, respondent shall furnish, or cause its employer to furnish, the Department on a weekly basis, by no later than 12:00 p.m. on each Friday, a work schedule for respondent for the following week. Such schedule shall indicate the date, time period (if less than a full day) and address for each project where respondent will be providing asbestos consultation services as a project monitor during such week. In the event that respondent is not scheduled to provide asbestos consultation services as a project monitor during a particular week, then respondent shall furnish the Department with a signed statement so indicating, by the 12:00 p.m. deadline specified above. Respondent shall notify the Department, not less than twenty-four (24) hours in advance, of any changes to his weekly work schedule, except for emergencies. For the purposes of this paragraph 3c, "asbestos consultation services" shall have the meaning given in Section 20-440-1(10) of the Regulations of Connecticut State Agencies and "project monitor" shall have the meaning given in Section 20-440-1(29) of the Regulations of Connecticut State Agencies. For the purposes of this paragraph 3c, "emergencies" shall mean those projects where respondent and/or his employer does not have at least twenty-four (24) hours advance notice of the need for respondent's asbestos consultation services as a project monitor for any project.
- d. Notwithstanding the provisions in paragraph 4 below, each report required by paragraph 3c above shall be sent to the Department by facsimile (860-509-7378) to the attention of Ronald Skomro, Supervising Environmental Sanitarian.
4. All correspondence and reports are to be addressed to:

Ronald Skomro, Supervising Environmental Sanitarian
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 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).

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. In the event respondent is not employed as an asbestos consultant – project monitor for periods of thirty (30) consecutive days or longer, 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.
11. 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.
12. 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.
13. Respondent understands this Consent Order may be considered as a public document and evidence of the above admitted violations in any proceeding before the Department in which his compliance with this Consent Order or with Chapters 400a or 3681 of the General Statutes of Connecticut, as amended, is at issue.

14. 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.
15. 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.
16. 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.
17. 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.
18. Respondent has the right to consult with an attorney prior to signing this document.

*

*

*

*

I, Dariusz Czarnota, 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.

Dariusz Czarnota
Dariusz Czarnota

Subscribed and sworn to before me this 30th day of April 2001.

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

My Commission Expires April 30, 2002

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the April day of 30th 2001, it is hereby accepted.

Thomas H. Furgalack
Thomas H. Furgalack, Director
Division of Environmental Health

s:llf/czarnota/co
4/01