

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

In re: AeroClean Demolition, Inc. d/b/a
AeroClean Demolition Contractors, Inc.

Petition No. 2000-0706-053-039

CONSENT ORDER

WHEREAS, AeroClean Demolition Contractors, Inc. of Trumbull, CT (hereinafter "respondent") has been issued license number 000012 to practice as an asbestos contractor 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. In or about October 1999, respondent was the licensed asbestos contractor for an asbestos abatement project at St. Joseph's Hospital, 180 Strawberry Hill Ave., Stamford, CT (hereinafter "the Stamford property"). Said project involved the removal of the following asbestos-containing materials: 2,000 square feet of flashing, 34,000 square feet of roofing, 1,500 square feet of flashing on roofing ducts, 410 linear feet per window of exterior caulk, 2,000 square feet of wall caulk, 10,300 linear feet of pipe insulation, 2,840 square feet of pipe fittings, 3,700 square feet of plaster, 6,070 linear feet of baseboard glue, 36,720 square feet of floor tile, 200 square feet of mastic, 1,700 square feet of glue daubs, 7,700 square feet of fireproofing, 4,050 square feet of ceiling tiles, 550 square feet of linoleum, 1,250 square feet of duct insulation and 25 square feet of transite.
2. On or about October 20, 1999, respondent, in connection with the asbestos abatement project at the Stamford property, failed to ensure that no individual reoccupy the work area

of an asbestos abatement project until compliance with Connecticut's post abatement reoccupancy criteria is achieved.

3. From on or about October 1999 through May 2000, respondent was the licensed asbestos contractor for an asbestos abatement project at Holly Hill Incinerator, Holly Hill Lane, Greenwich, CT (hereinafter "the Greenwich property"). According to the asbestos abatement notification filed by respondent with the Department, said project involved the removal of the following asbestos-containing materials: 8,000 square feet of boiler insulation, 31 square feet of duct insulation, 45 square feet of sheetrock, 30 square feet of debris, 6,300 square feet of roofing materials, 98 linear feet of gaskets and 191 linear feet of pipe insulation.
4. On or about April 25, 2000, respondent, in connection with the asbestos abatement project at the Greenwich property:
 - a. failed to isolate the work area(s) from the non-work area(s) with airtight barriers attached securely in place in that a department investigator observed several breaches in critical barriers throughout the facility;
 - b. failed to ensure that no person or equipment leave the work area unless first decontaminated by showering, wet washing or high efficiency particulate air (HEPA) vacuuming to remove all asbestos debris in that a department investigator observed a bobcat being driven into and out of the work area and three workers walking into and out of the work area, all without decontaminating;
 - c. failed to restrict work area access to authorized personnel afforded proper respiratory protection and protective clothing in that a department investigator observed one of respondent's employees cleaning the equipment room of the worker decontamination system without wearing a tyvek suit or respiratory protection; and

- d. failed to notify the department of all of the asbestos containing materials to be removed by respondent from the facility on the Greenwich property and to pay the requisite statutory notification fee.
5. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §§19a-332, 19a-332a(b) and 19a-332a(c) of the General Statutes of Connecticut, taken in conjunction with the Regulations of Connecticut State Agencies, §§19a-332a-1, 19a-332a-2, 19a-332a-3(c), 19a-332a-5(c), 19a-332a-5(f), 19a-332a-6, 19a-332a-7(d), 19a-332a-12 and 20-440-6(b) 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, 19a-332a and Chapter 400a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17, 19a-332a and Chapter 400a of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives its right to a hearing on the merits of this matter.
2. Respondent shall pay a civil penalty of four thousand and seven hundred and fifty dollars (\$4,750.00) 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 shall be placed on probation for a period of thirty days under the following terms and conditions:
 - a. Respondent shall provide an accounting to the Department of the types and amounts of asbestos containing materials removed by respondent's employees or agents from the facility at the Greenwich property. Such accounting shall be provided by filing

an amended notification form, which shall include, without limitation, the amount of asbestos containing ash waste that was removed as part of the asbestos abatement project, as well as any additional asbestos containing insulating materials that were discovered within the incinerator buildings after the asbestos abatement project commenced. The amended notification form shall be filed by respondent prior to the expiration of the thirty-day probationary period specified in paragraph 3 above.

- b. The Department's Indoor Air Program received, on or about October 14, 1999, an asbestos abatement notification form from the respondent for the asbestos abatement project at the Greenwich property. A copy of said notification form is attached hereto as Exhibit A and made a part hereof. In addition, the Department received, on or about October 14, 1999, a payment of one thousand one hundred and fifty dollars (\$1,150.00) for the notification fee required under Section 19a-332a(c) of the General Statutes of Connecticut. Respondent agrees that the total abatement cost it reported on the notification in Exhibit A is incorrect and that it should have filed an amended notification form to include an additional amount of seventy-eight thousand one hundred and seventy dollars and twenty-eight cents (\$78,170.28), which represents the cost to abate additional asbestos containing materials found within the facility, after the notification in Exhibit A was filed. The respondent further agrees that an additional notification fee of seven hundred and eighty one dollars and seventy cents (\$781.70) is owed to the Department for these additional materials. Respondent shall pay said amount by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall be payable at the time respondent submits the amended notification required under paragraph 3a above.

- c. Respondent further agrees that asbestos contaminated ash waste generated from the facility on the Greenwich property was disposed at a cost of forty-two thousand dollars (\$42,000). A portion of said disposal cost includes a disposal fee for hazardous materials, other than asbestos, that were present in the ash waste. Respondent shall provide an accounting to the Department of the portion of the disposal fee that represents the cost associated with disposing of the ash waste as an asbestos containing material and shall indicate the number of containers that were disposed of, as well as the cost per container. The accounting required under this paragraph 3c shall be certified by respondent's president and treasurer and shall be reported substantially in the format as that specified in Exhibit B, attached hereto and made a part hereof. The accounting shall be submitted prior to the expiration of the thirty-day probationary period that is specified in paragraph 3 above. At the time said accounting is submitted, the respondent shall pay the additional notification fee due the Department, based on the portion of the disposal fee attributed to the presence of asbestos in the hazardous ash waste and the formula specified in Section 19a-332a(c) of the General Statutes of Connecticut. Respondent shall pay said amount by certified or cashier's check payable to "Treasurer, State of Connecticut."

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 its 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 it has complied with the terms of this Consent Order or, in the alternative, that it 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, it 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 contractor, 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 its failure to cooperate with the Department's investigation shall constitute an admission that its 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 its license before the Department.
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 its compliance with this Consent Order or with Chapters 400a or 368l 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 it 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 has the right to consult with an attorney prior to signing this document.

*

*

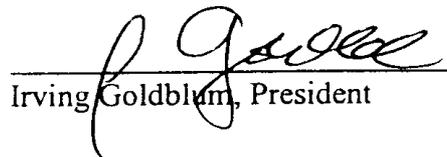
*

*

*

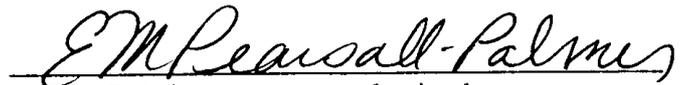
*

I, Irving Goldblum, President of AeroClean Demolition, Inc. d/b/a AeroClean Demolition Contractors, Inc., have read the above Consent Order, and I affirm that I am fully authorized and empowered to bind said corporation. I hereby stipulate and agree to bind AeroClean Demolition, Inc. d/b/a AeroClean Demolition Contractors, Inc. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

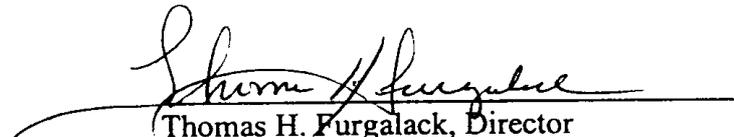

Irving Goldblum, President

Subscribed and sworn to before me this 4th day of October 2001.

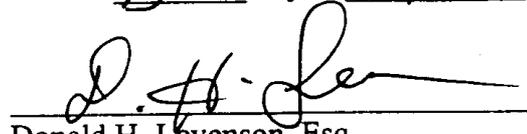
E M PEARSALL-PALMER
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 2005


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 9th day of October 2001, it is hereby accepted.


Thomas H. Furgalack, Director
Division of Environmental Health

The above Consent Order having been presented to the duly authorized agent of the Commissioner of the Department of Public Health on the 15th day of October 2001, it is hereby ordered and accepted.


Donald H. Levenson, Esq.
Hearing Officer
Public Health Hearing Office