

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
REGULATORY SERVICES BRANCH

In re: New England Masonry & Roofing Co.

Petition No. 2006-0424-053-003

CONSENT ORDER

WHEREAS, New England Masonry & Roofing Co. of Naugatuck, CT (hereinafter "respondent") has been issued license number 000039 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 April 2006, respondent performed an asbestos abatement project in connection with the renovation of the former Ames Department Store located at 727 Rubber Avenue, Naugatuck, CT (hereinafter "the property"). Said project involved the removal of approximately 50,000 square feet of asbestos containing floor tile.
2. In or about April 2006, in connection with the asbestos abatement project at the property, respondent:
 - a. failed to notify the Department at least ten (10) days before the start of asbestos abatement and/or to pay the requisite fee, as required by §19a-332a(c) of the General Statutes of Connecticut and by §19a-332a-3 of the Regulations of Connecticut State Agencies (hereinafter, "the Regulations");
 - b. failed to maintain records of the asbestos abatement project which contain the information required by §19a-332a-4 of the Regulations;

- c. failed to isolate the work area(s) from the non-work area(s) with air-tight barriers, as required by §19a-332a-5(c) of the Regulations, in that no air-tight barriers were constructed during the removal of asbestos floor tile;
- d. failed to cover all wall surfaces with polyethylene sheeting or the equivalent, as required by §19a-332a-5(e) of the Regulations, in that none of the wall surfaces were covered during the removal of asbestos floor tile;
- e. failed to utilize clean-up procedures, involving high efficiency particulate air (hereinafter "HEPA") filtration and wet cleaning techniques, until no visible residue is observed in the work area, as required by §19a-332a-5(g) of the Regulations;
- f. failed to restrict work area access to authorized personnel afforded proper respiratory protection and protective clothing, in violation of §19a-332a-5(f) of the Regulations, in that workers performing renovation work reoccupied the property without wearing any respiratory protection or protective clothing;
- g. failed to provide negative pressure ventilation units with HEPA filtration in sufficient number to allow at least one work place air change every fifteen minutes, in violation of §19a-332a-5(h) of the Regulations, in that no such units were used during the removal of asbestos floor tile;
- h. failed to construct, operate and/or maintain a worker decontamination system, as required by §19a-332a-6(a) of the Regulations;
- i. failed to apply a coating of encapsulant to all floor surfaces that have been stripped of asbestos floor tile after the surfaces have been visually inspected and found to be free of visible residue, as required by §19a-332a-7(c) of the Regulations;
- j. failed to comply with the post abatement reoccupancy requirements of §19a-332a-12 of the Regulations, in that a licensed project monitor had not conducted the required air sampling prior to reoccupancy of the work area; and/or

- k. failed to ensure that individuals employed as asbestos abatement workers and/or asbestos abatement site supervisors had the requisite accreditation documents and/or a current certificate issued by the Department, in violation of §20-440-5(a) of the Regulations.
3. Subsequently, respondent hired an asbestos consultant project designer to assess the extent of contamination at the property and develop a project design to address the improper removal of asbestos floor tile at the property. In or about May and June 2006, respondent hired an asbestos contractor to complete the asbestos abatement project at the property in accordance with said project design.
4. The above described facts constitute grounds for disciplinary action pursuant to, without limitation, Chapter 400a and §19a-332a(b) and/or (c) of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2, 19a-332a-3, 19a-332a-4, 19a-332a-5(c), 19a-332a-5(e), 19a-332a-5(g), 19a-332a-5(f), 19a-332a-5(h), 19a-332a-6(a), 19a-332a-7(c), 19a-332a-12, 20-440-5(a) and/or 20-440-6(b) of the Regulations.

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 and 19a-14 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14 and 19a-17 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's license number 000039 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of thirty thousand dollars (\$ 30,000.00) 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 shall comply with all state and federal statutes and regulations applicable to its licensure.
5. Respondent shall pay all costs necessary to comply with this Consent Order.
6. This Consent Order is effective on the date this Consent Order is accepted by the Department.
7. 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.
8. 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.
9. 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.

10. 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.
11. Respondent has the right to consult with an attorney prior to signing this document.
12. 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, Lorraine Emanuel, President and Chief Executive Officer of New England Masonry & Roofing Co., have read the above Consent Order, and I represent and warrant that I am fully authorized and empowered to bind said company. I hereby stipulate and agree to bind New England Masonry & Roofing Co. to the terms as set forth in the above Consent Order. I further declare the execution of this Consent Order to be my free act and deed.



Lorraine Emanuel, President and
Chief Executive Officer

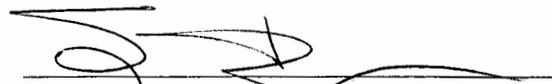
Subscribed and sworn to before me this 18 day of May 2007.



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

MARIA J. RICCIARDI
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 2008

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 31st day of May 2007, it is hereby accepted.



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