

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

In re: Briteside, Inc.

Petition No. 990323-053-001

CONSENT ORDER

WHEREAS, Blake Johnson, President of Briteside, Inc., a corporation organized under the laws of the State of Connecticut (hereinafter "respondent") has been issued license number 000042 to practice as an asbestos abatement 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 August 1998, his firm was the licensed asbestos abatement contractor for an asbestos abatement project in the basement of a residence located at 345 Westmont Road, West Hartford, CT (hereinafter "the residence"). At the aforementioned time, the residence was under deposit.
2. On or about August 3, 1998, respondent, in connection with an asbestos abatement project in the basement of the residence:
 - a. failed to post warning signs at all approaches to the work area;
 - b. failed to ensure that the work area was isolated from non-work areas by air-tight barriers attached securely in place;
 - c. failed to cover floor and wall surfaces in the work area with polyethylene sheeting or the equivalent;

- d. failed to ensure that a sufficient number of negative pressure ventilation units with HEPA filtration were installed to allow at least one work place air change every fifteen minutes;
 - e. failed to equip the work area with a worker decontamination system to ensure that no person or equipment left the work area unless first decontaminated by showering, wet washing or HEPA vacuuming to remove all asbestos debris; and
 - f. failed to remove all movable objects from the work area and to cover all non-movable objects with six mil polyethylene sheeting.
3. Subsequently, respondent retained an independent consultant to design a work procedure which required, without limitation, remedial cleaning and reoccupancy air clearance sampling by an independent asbestos abatement project monitor.
 4. On or about August 18, 1998, after respondent had left the job site, the prospective buyer of the residence hired a consultant to inspect the basement area to determine whether proper cleaning measures had been conducted by respondent. A visual inspection and air sampling conducted by said consultant indicated the presence of asbestos debris in the basement area.
 5. On or about October 1, 1998, a representative of the Department observed asbestos duct insulation debris on top of concrete ledges in the basement area. Samples of the debris taken by said representative were analyzed by the Department's laboratory. Said analysis indicated that the materials sampled contained more than twenty percent asbestos.
 6. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §19a-332a(b) of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-5(a), 19a-332a-5(c), 19a-332a-5(d), 19a-332a-5(e), 19a-332a-5(f),

19a-332a-5(g), 19a-332a-5(h), 19a-332a-6, 19a-332a-12 and/or 19a-332a-18(e) of the Regulations, 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 its right to a hearing on the merits of this matter.
2. Respondent shall pay a civil penalty of three thousand dollars (\$3,000.00) 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.
3. Respondent's license number 000042 shall be placed on probation until it completes five (5) interior asbestos abatement projects. The five such projects that are subject to the probationary terms shall be the first five projects performed by respondent after the effective date of this Consent Order and that involve interior abatement of more than three linear feet or more than three square feet of asbestos-containing material; provided that such abatement projects do not require an emergency asbestos abatement notification where respondent does not have at least ten (10) days before the start of the asbestos abatement to engage the services of an asbestos abatement project monitor as required by paragraph 3(b) below. The terms and conditions of the probation shall be as follows:

- a. Respondent shall comply with all statutes and regulations applicable to its licensure including, but not limited to:
- (1) causing signs to be posted at all approaches to the work area in the manner set forth in §19a-332a-5(a) of the Regulations, Connecticut State Agencies;
 - (2) causing all affiliated asbestos abatement personnel to properly contain the work area in the manner set forth in §§19a-332a-5(c) and 19a-332a-5(e) of the Regulations, Connecticut State Agencies;
 - (3) causing all affiliated asbestos abatement personnel to establish and operate a decontamination facility in the work area in the manner set forth in §19a-332a-6 of the Regulations, Connecticut State Agencies;
 - (4) removing all movable objects from the work area and covering all non-movable objects in the work area in the manner set forth in §19a-332a-5(d) of the Regulations, Connecticut State Agencies;
 - (5) restricting access to the work area to authorized personnel afforded the proper protective equipment required under §19a-332a-5(f);
 - (6) causing all affiliated asbestos abatement personnel to establish and operate a sufficient number of negative pressure ventilation units in the work area during asbestos abatement, in the manner set forth in §19a-332a-5(h) of the Regulations, Connecticut State Agencies; and/or
 - (7) causing all affiliated asbestos abatement personnel to conduct appropriate clean-up operations following asbestos abatement to any facility in order to comply with the reoccupancy criteria set forth in §19a-332a-12 of the Regulations, Connecticut State Agencies.

- b. For each of the five interior asbestos abatement projects regulated by the Department, respondent shall obtain, at its own expense, the services of an asbestos abatement project monitor, certified and practicing in the State of Connecticut and pre-approved by the Department (hereinafter "monitor"), to review respondent's records and inspect respondent's work sites as follows:
- (1) The monitor shall meet with respondent's president and inspect its work sites at a frequency to be determined by the monitor, to ensure satisfactory performance of the five interior asbestos abatement projects;
 - (2) Respondent shall provide the monitor with reasonable notice prior to commencement of each such interior asbestos abatement project and shall fully cooperate with the monitor in providing access to the sites and records for such monitoring; and
 - (3) The monitor shall prepare and submit directly to the Department, a written report addressing his/her findings regarding each such project. Such monitor's reports shall include documentation of dates and duration of meetings with respondent's president, a general description of the work reviewed, additional monitoring techniques utilized, a statement that the monitor personally observed respondent's work and that such work was completed with reasonable skill and safety and in compliance with all applicable federal, local and state laws and regulations, and a statement that respondent's personnel cleaned the work area in compliance with applicable reoccupancy criteria. If the monitor, at any time, determines that respondent is not in compliance with the statutes or regulations governing its practice or the terms of this Consent Order, he or she shall immediately so notify the Department.

4. All correspondence and reports are to be addressed to:

Ronald Skomro, Supervising Environmental Sanitarian
Department of Public Health
Indoor Air Program
410 Capitol Avenue, MS #51AIR
P.O. Box 340308
Hartford, CT 06134-0308

5. All reports required by the terms of this Consent Order shall be due within thirty (30) days of completion of each project identified in paragraph (3) above.
6. Respondent shall comply with all state and federal statutes and regulations applicable to its licensure.
7. Respondent shall pay all costs necessary to comply with this Consent Order.
8. 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 8a 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.
9. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an asbestos abatement 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).
10. 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.
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 day it is accepted and ordered by the Department.
13. 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 Chapter 400a 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 it 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.

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I, Blake Johnson, President of Briteside, 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 Briteside, Inc. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Blake Johnson

Blake Johnson, President
Briteside, Inc.

Subscribed and sworn to before me this 7th day of October 1999.

LINDA L. LYNCH
NOTARY PUBLIC
MY COMMISSION EXPIRES MAR. 31, 2000

Linda L. Lynch

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 7th day of October 1999, it is hereby accepted.

Thomas H. Furgalack

Thomas Furgalack, Director
Division of Environmental Health

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 7th day of October 1999, it is hereby ordered and accepted.

Elisabeth Borrino

Elisabeth Borrino, Hearing Officer
Public Health Hearing Office