

STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES

In re: Astech-Marmon, Inc.

Petition No. 980729-053-002

CONSENT ORDER

WHEREAS, Leonard A. Mobilio, President of Astech-Marmon, Inc., a corporation organized under the laws of the State of Connecticut, (hereinafter "respondent") has been issued license number 000181 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, taken in conjunction with §§19a-332a-17(h) and 19a-332a-18 of the Regulations, Connecticut State Agencies; and,

WHEREAS, respondent admits that:

1. In or about July 1997, Rose C. Morgan retained respondent, a licensed asbestos contractor, to conduct asbestos abatement in the basement and crawl space of Ms. Morgan's former home located at 101 Waterville Road, Southport, CT (hereinafter the "residence"). At the aforementioned time, Ms. Morgan's residence was under deposit.
2. On or about said date, while working as a licensed asbestos contractor at the residence, respondent failed to:
  - a. isolate the work areas from non-work areas by air-tight barriers, while conducting asbestos abatement activities in the basement and crawl space of the residence; and/or

- b. use high efficiency particulate air (HEPA) filtered vacuuming and wet cleaning techniques following asbestos abatement until there is no visible residue in the work areas in the basement and crawl space of the residence; and/or
  - c. remove asbestos containing material and debris from underneath the plastic sheeting covering the floor of the crawl space work area; and/or
  - d. remove asbestos debris from the floor near the furnace/tank area in the basement.
3. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2(a), 19a-332a-7(c), 19a-332a-10, and 19a-332a-18(e) of the Regulations, 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, 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 000181 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.
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. Respondent shall remediate the basement area, including the entire crawl space area and the furnace/tank room areas, of the residence in accordance with the following conditions:
  - a. Respondent shall hire, at its own cost and expense, an asbestos abatement project designer to prepare an asbestos abatement project design to determine how the asbestos abatement work should be conducted in the entire basement area of the residence;
  - b. Respondent shall perform, or hire, at its own cost and expense, a third party asbestos contractor to perform asbestos abatement work in the entire basement area of the residence in accordance with the asbestos abatement project design prepared pursuant to paragraph 4a above and in accordance with all applicable state and federal statutes and regulations, including, but not limited to, state regulations that pertain to asbestos abatement projects, as such term is defined in Section 19a-332a-1(e) in the Regulations, Connecticut State Agencies;
  - c. Respondent shall hire, at its own cost and expense, an asbestos abatement project monitor to conduct air sampling in and visually inspect the work area(s) of the basement for post abatement reoccupancy, in accordance with the post abatement reoccupancy criteria set forth in Section 19a-332a-12 of the Regulations, Connecticut State Agencies;
  - d. Any person or entity hired by respondent as an asbestos abatement project designer, asbestos contractor and/or asbestos abatement project monitor pursuant to paragraphs 4a, 4b or 4c above shall not, directly or indirectly, hold and/or control any financial share, percentage, allotment, stake, or part and/or have any other ownership interest in or the power to direct or cause the direction of the management of respondent. In addition, any person or entity hired by respondent as an asbestos contractor pursuant to

paragraph 4b above shall not, directly or indirectly, own or control, or be owned or controlled by, or under common ownership or control with, any person or entity hired by respondent as an asbestos abatement project designer and/or an asbestos abatement project monitor pursuant to paragraphs 4a or 4c above;

- e. Respondent shall provide the Department the notification required under Section 19a-332a-3 of the Regulations, Connecticut State Agencies at least ten (10) days before the start of the asbestos abatement work at the residence. In addition, respondent shall notify the Department of the identity of any person or entity hired by respondent as an asbestos abatement project designer and/or asbestos abatement project monitor pursuant to paragraphs 4a or 4c above, within five (5) days of the date such person or entity is hired by respondent or two (2) days prior to the commencement of the asbestos abatement work at the residence, whichever is the first to occur. Not less than seven (7) days after completion of the asbestos abatement work, respondent shall provide the Department with copies of all records, including, but not limited to, air sampling test results, demonstrating compliance with the post abatement reoccupancy criteria set forth in Section 19a-332a-12 of the Regulations, Connecticut State Agencies; and
- f. Respondent agrees that the remediation of the basement area shall be completed on or before June 30, 1999, subject to cooperation of the current homeowner and/or the current occupants of the residence.

5. 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

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, 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 after the last signatory is fixed to this document.
12. 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 Chapter 400a 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.

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I, Leonard A. Mobilio, President of Astech-Marmon, 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 Astech-Marmon, Inc. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Leonard A. Mobilio  
Leonard A. Mobilio

Its: President

Subscribed and sworn to before me this 28 day of April 1999.

Barbara Miller  
Notary Public or person authorized  
by law to administer an oath or affirmation  
Commissioner of the Superior Court

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 May 1999, it is hereby accepted.

Thomas Furgalack  
Thomas Furgalack, Director  
Division of Environmental Health