

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

In re: Commercial Energy Management, Inc.

Petition No. 2000-0419-053-021

CONSENT ORDER

WHEREAS, Commercial Energy Management, Inc. of Worcester, Massachusetts (hereinafter "respondent") has been issued license number 000291 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 March 2000, the respondent was the licensed asbestos contractor for an asbestos abatement project at 283 Route 169, Woodstock, Connecticut (hereinafter "the property"). Said project involved the removal of approximately 52 square feet of asbestos containing pipe insulation from the basement of a residence located on the property.
2. On or about March 31, 2000, the respondent, in connection with the asbestos abatement project at the property:
 - a. failed to post warning signs at all approaches to the work area to permit a person to read the signs and take precautionary measures to avoid exposure to asbestos;
 - b. failed to isolate the work area from the non-work areas with air-tight barriers attached securely in place in that Department investigators observed a large hole in the polyethylene sheeting used to contain the work area;

- c. failed to construct and operate a worker decontamination system adjacent to the work area in that Department investigators observed no shower facilities on site and the site supervisor left the work area without decontaminating by showering, wet washing or high efficiency particulate air (HEPA) vacuuming to remove all asbestos debris; and
 - d. failed to provide negative pressure ventilation units with HEPA filtration (hereinafter "Air Filtration Units") in sufficient number to allow at least one work place air exchange every fifteen minutes in that the Air Filtration Unit was unplugged when Department investigators arrived at the property and removal work was already underway.
3. The above described facts constitute grounds for disciplinary action pursuant to Chapter 400a and §§19a-332 and 19a-332a(b) of the General Statutes of Connecticut, taken in conjunction with §§19a-332-1, 19a-332a-2, 19a-332a-5(a), 19a-332a-5(c), 19a-332a-5(h), 19a-332a-6, 20-440-1 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 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 000291 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.

3. Respondent shall pay a civil penalty of two thousand and one hundred dollars (\$2,100.00) 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 and ordered 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 3681 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 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.

11. Respondent has the right to consult with an attorney prior to signing this document.

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I, Don Hoogasian, President of Commercial Energy Management, Inc., 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 Commercial Energy Management, Inc. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Don Hoogasian
Don Hoogasian, President

Subscribed and sworn to before me this 17th day of January 2000.

[Signature]
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 February 2000, it is hereby accepted.

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

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