

STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
REGULATORY SERVICES BRANCH

In re: Abatement Unlimited Inc.

Petition No. 2005-1118-053-013

**CONSENT ORDER**

WHEREAS, Abatement Unlimited Inc. of New York, NY (hereinafter "respondent") has been issued license number 000456 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 September 2005, respondent was the licensed asbestos contractor for an asbestos abatement project at a commercial facility located at 70 Riverdale Ave., Greenwich, CT (hereinafter, "the facility"). Said project involved the removal of the following asbestos containing materials: approximately 40,000 square feet of floor covering and associated mastic, 200 square feet of ceramic tile glue, 100 square feet of ceiling tile glue daubs, and 250 linear feet of window glazing. Said project was performed with an alternative work practice that was approved by the Department pursuant to §19a-332a-11 of the Regulations of Connecticut State Agencies (hereinafter "the Regulations") and that allowed respondent to isolate the work area(s) from non-work area(s) with airtight barriers, in lieu of covering wall surfaces with two (2) layers of polyethylene sheeting under §19a-332a-5(e) of the Regulations.

2. On or about September 20, 2005, in connection with the asbestos abatement project at the facility, respondent:
  - a. failed to isolate the work area(s) from non-work area(s) with airtight barriers, in violation of §19a-332a-5(c) of the Regulations, in that:
    - (i) approximately thirty (30) breaches were observed by a Department investigator in barriers isolating the work area(s) from non-work area(s) and at least one (1) barrier was observed blowing back and forth in the wind;
    - (ii) an electrical room and/or a stairwell that was not part of the work area(s) had been entered by one or more workers and was contaminated with visible residue; and/or
    - (iii) a puddle of solvent that was being used to remove asbestos containing mastic had migrated outside of a work area on the first floor of the facility;
  - b. failed to provide negative pressure ventilation units with high efficiency particulate air (hereinafter "HEPA") filtration in sufficient number to allow at least one (1) work place air change every fifteen (15) minutes, in violation of §19a-332a-5(h) of the Regulations, in that at least five (5) units in the work area(s) were not operating and the exhaust hoses for two (2) other units were breached, thereby resulting in reduced efficiency of those units. In addition, the Department investigator observed that there was no consistent observable negative pressure within one of the work areas as evidenced by the fact that movement of the polyethylene sheeting covering a portion of the windows indicated that air was moving into and out of the work area;
  - c. failed to ensure that no person or equipment leave the work area(s) unless first decontaminated, in violation of §19a-332a-6(b) of the Regulations, in that an

- electrical room and/or a stairwell that was not part of the work area(s) had been entered by one or more workers and was contaminated with visible residue;
- d. failed to post warning signs at all approaches to the work area(s), in violation of §19a-332a-5(a) of the Regulations; and/or
  - e. failed to shut down, lock out and/or isolate the facility heating, ventilating and air conditioning systems within the work area, in violation of §19a-332a-5(b) of the Regulations in that a ventilation duct in a second floor work area was left open.
3. Subsequently, a review of project logs kept by an independent licensed asbestos consultant project monitor during the period September 7, 2005 through September 14, 2005 revealed that many of the conditions observed during the Department's inspection on or about September 20, 2005 had been observed by said project monitor, including the following:
- a. polyethylene barriers were observed to be falling down, in violation of §19a-332a-5(c) of the Regulations, on five (5) occasions;
  - b. exhaust ducts were observed to have fallen off of negative pressure ventilation units and/or an insufficient number of units were operating, in violation of §19a-332a-5(h) of the Regulation, on five (5) occasions; and/or
  - c. on one (1) occasion, a worker exited through a polyethylene barrier without properly decontaminating, in violation of §19a-332a-6(b) of the Regulations.
4. The above described facts constitute grounds for disciplinary action pursuant to, without limitation, Chapter 400a and §19a-332a(b) of the General Statutes of Connecticut, taken in conjunction with §§19a-332a-1, 19a-332a-2, 19a-332a-5(a), 19a-332a-5(b), 19a-332a-5(c), 19a-332a-5(h), 19a-332a-5(i), 19a-332a-6(b), and 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 000456 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of twenty thousand dollars (\$20,000.00) 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 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 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.

\*

\*

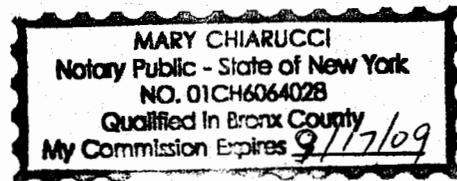
\*

I, Carole McKenzie, President of Abatement Unlimited Inc., have read the above Consent Order, and I represent and warrant that I am fully authorized and empowered to bind said corporation. I hereby stipulate and agree to bind Abatement Unlimited Inc. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Carole McKenzie  
Carole McKenzie, President.

Subscribed and sworn to before me this 16<sup>th</sup> day of March 2007.

Mary Chiarucci  
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 22<sup>nd</sup> day of March 2007, it is hereby accepted.

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

s:lhf/Abate Unlim/Generlco