

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

In re: Cherry Hill Construction, Inc.

Petition No. 2010-15

CONSENT ORDER

WHEREAS, Cherry Hill Construction, Inc. of North Branford, CT (hereinafter "respondent") has been issued license number 000477 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 and/or October 2009, respondent performed an asbestos abatement project in connection with the demolition of a residential building formerly located at 432-434 Newhall Street, Hamden, CT (hereinafter "the property"). Said project involved the removal of asbestos containing flooring, pipe insulation, plaster ceiling, plaster walls, chimney cement and window glazing.
2. On or about November 10, 2009 and/or occurring from at least on or about October 12, 2009 to said date, respondent, in connection with the asbestos abatement project at the property:
 - a. failed to post warning signs at all approaches to the work area(s), in violation of §19a-332a-5(a) of the Regulations of Connecticut State Agencies (hereinafter "the Regulations"), in that no warning signs were posted at the property;
 - b. failed to isolate the work area(s) from the non-work area(s) with air-tight barriers attached securely in place, in violation of §19a-332a-5(c) of the Regulations, in that multiple critical barriers had failed and/or were not in place; and/or
 - c. failed to utilize clean up procedures involving high efficiency particulate air filtered vacuuming and wet cleaning techniques until no visible residue is observed in the work area(s), in violation of §19a-332a-5(g) of the Regulations, in that significant amounts of visible asbestos containing materials remained and/or asbestos contamination existed throughout the residential building, including, without limitation asbestos containing plaster debris, wood lathing contaminated with asbestos containing plaster and asbestos flooring materials. Said conditions existed after respondent obtained a satisfactory final visual inspection by an asbestos consultant project monitor.

3. 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(c), 19a-332a-5(g), 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 000477 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 368f 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. Respondent understands that this Consent Order shall not be subject to modification as a result of any claim that the terms contained herein may result in action by third parties, including, but not limited to, healthcare facilities and/or credentialing or licensure boards. Respondent assumes all responsibility for assessing such actions prior to the execution of this document. 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. The purpose of this Consent Order is to resolve the pending administrative license disciplinary petition only, and is not intended to affect any civil or criminal liability or defense.
- 13. This Consent Order embodies the entire agreement of the parties with respect to this case. All previous communications or agreements regarding the subject matter of this consent order, whether oral or written, between the parties are superseded unless expressly incorporated herein or made a part hereof.

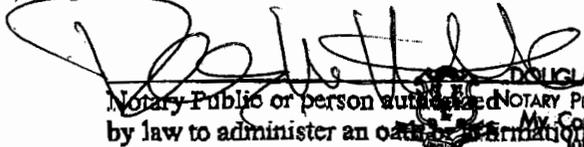
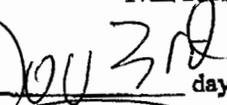
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I, Ivan Sachs, President of Cherry Hill Construction, Inc., have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.



Ivan Sachs, President

Subscribed and sworn to before me this NOV 3rd day of _____ 2011.



DOUGLAS MATHEWSON
Notary Public or person authorized by law to administer an oath
NOTARY PUBLIC - CONNECTICUT
My Commission Expires July 31, 2015

The above Consent Order having been presented to the duly appointed agent of the Commissioner of the Department of Public Health on the 3rd day of NOV 2011, it is hereby accepted.



Suzanne Blandafior, M.S., M.P.H., Section Chief
Environmental Health Section
Regulatory Services Branch