

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

In re: Cherry Hill Construction, Inc.

Petition No. 2011-10

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 April and May 2011, respondent performed an asbestos abatement project in connection with the demolition of a shopping plaza located at 106-140 Federal Road, Brookfield, Connecticut (hereinafter "the property"). Said project involved the removal of asbestos containing flooring, insulation, pipe covering, roofing, caulking and adhesive materials.
2. On or about May 19, 2011, in connection with the asbestos abatement project at the property, respondent:
 - a. failed to 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 in connection with asbestos removal work occurring in three (3) separate buildings on 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, including, without limitation, in building(s) where asbestos materials had been removed, but no air sampling for reoccupancy had been performed; and/or
- c. failed to cover all floor and/or wall surfaces in each work area with a minimum of two (2) layers of four (4) mil polyethylene sheeting or the equivalent, in violation of §19a-332a-5(e) of the Regulations, in that polyethylene sheeting was absent and/or had failed, including, without limitation, in building(s) where asbestos materials had been removed, but no air sampling for reoccupancy had been performed;
- d. failed to restrict work area access to authorized personnel afforded proper respiratory protection and protective clothing, as required by §19a-332a-5(f) of the Regulations, in that three (3) workers removed their respiratory protection in the work area(s) and wore street clothing under their protective clothing and a supervisor entered a work area without respiratory protection or protective clothing;
- e. failed to have an adequate water source at the property in order to: (i) adequately wet all asbestos containing material to be removed or otherwise disturbed by removal, as required by §19a-332a-7(a) of the Regulations; (ii) adequately wet all asbestos containing waste using an amended water solution, as required by §19a-332a-5(j) of the Regulations; and/or (iii) utilize the clean-up techniques required by §19a-332a-5(g) of the Regulations;
- f. failed to use a sufficient number of negative pressure ventilation units to allow at least one (1) work place air change every fifteen (15) minutes, as required by §19a-332a-5(h) of the Regulations, in that an insufficient number of units were installed in

two of the work areas; no units were installed in three of the work areas; and units installed in two other work areas were not operating;

- g. failed to label all asbestos waste containers, as required by §19a-332a-5(k) of the Regulations; and/or
- h. failed to properly construct, maintain or operate a worker decontamination system, as required by §19a-332a-6 of the Regulations.

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(e), 19a-332a-5(f), 19a-332a-5(g), 19a-332a-5(h), 19a-332a-5(j), 19a-332a-5(k), 19a-332a-6, 19a-332a-7(a), 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 seven thousand and five hundred dollars

(\$27, 500.00) 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 368l 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.

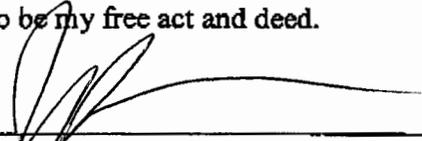
9. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
10. Respondent permits a representative of the Legal Office of the Healthcare Quality and Safety Branch to present 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 State's Attorney's Office where the allegation occurred or Bureau Chief of the applicable unit in the Chief State's Attorney's Office. 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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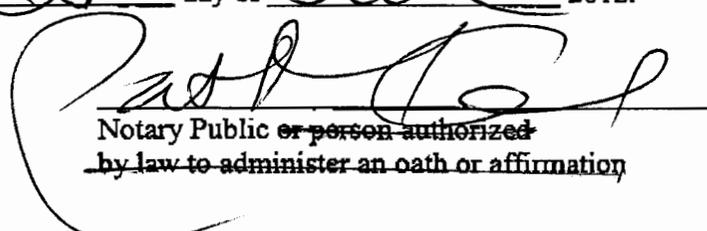
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I, Ivan Sachs, President of Cherry Hill Construction, Inc., have read the above Consent Order, and I represent and warrant that I am fully authorized and empowered to bind said company. I hereby stipulate and agree to bind Cherry Hill Construction, Inc. 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 28th day of June 2012.

PATRICIA MCKECHNIE
NOTARY PUBLIC
MY COMMISSION EXPIRES 11/30/12


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 9th day of July 2012, it is hereby accepted.


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

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