

# STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

## PUBLIC HEALTH HEARING OFFICE

July 3, 2012

Mark Constantini, President  
Enviroguard Environmental, LLC  
81 Silvermine Road  
Seymour CT 06483

CMRRR # 91 7108 2133 3932 0602 1140  
First Class Mail

Matthew Antonetti, Principal Attorney  
Legal Office - MS#12LEG  
Department of Public Health  
410 Capitol Avenue  
P. O. Box 340308  
Hartford CT 06134-0308

E-Mail

**RE: Enviroguard Environmental, LLC**

**Petition No. 2009-2009240**

Dear Mr. Constantini and Attorney Antonetti:

Enclosed please find a copy of the Consent Order in the above-referenced case.

Sincerely,

A handwritten signature in cursive script that reads "Janice E. Wojick".

Janice E. Wojick, Hearings Liaison  
Public Health Hearing Office, MS #13PHO  
Tel. 860-509-7648 FAX 860-509-7553

c: Jewel Mullen, M.D., M.P.H., M.P.A., Commissioner  
Henry Salton, Assistant Attorney General  
Ellen Blaschinski, Branch Chief, Regulatory Services Branch  
Suzanne Blancaflor, Section Chief, Environmental Health  
Linda Fazzina, Staff Attorney, Legal Office

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STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
REGULATORY SERVICES BRANCH

In re: Enviroguard Environmental, L.L.C.

Petition No. 2009-2009240

CONSENT ORDER

WHEREAS, Enviroguard Environmental, L.L.C. of Bridgeport, CT (hereinafter "respondent") has been issued license number 000533 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 2009, respondent performed an asbestos abatement project that involved the removal of asbestos containing duct insulation throughout a residence located at 25 Margemere Drive, Fairfield, CT (hereinafter, "the residence").
2. On or about April 6, 2009, in connection with the removal of duct insulation from the kitchen and/or playroom and/or breakfast nook areas of the residence, respondent:
  - a. failed to post warning signs at all approaches to the work area(s), as required by §19a-332a-5(a) of the Regulations of Connecticut State Agencies (hereinafter, "the Regulations");
  - b. failed to ensure that the work area(s) were isolated from the non-work area(s) by air-tight barriers, as required by §19a-332a-5(c) of the Regulations, in that barriers were missing from window(s) and/or doorway/stairwell openings between floors;
  - c. failed to cover all floor and wall surfaces in the work area with two (2) layers of polyethylene sheeting, as required by §19a-332a-5(e) of the Regulations of Connecticut

State Agencies (hereinafter, "the Regulations"), in that no polyethylene sheeting had been installed;

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 at least two (2) individuals accessed the work area without respiratory protection and protective clothing;

e. 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 no ventilation units were installed;

f. failed to repeat the sequence of wet cleaning and high efficiency particulate air (HEPA) filtered vacuuming until no visible residue is present, as required by §19a-332a-5(g) of the Regulations and/or

g. failed to provide a worker decontamination system at the entrance to the work area(s), as required by §19a-332a-6 of the Regulations.

3. In or about April 2009, the Department approved an alternative work practice, in accordance with §19a-332a-11 of the Regulations, to allow the first, second and basement levels of the residence to be decontaminated. Subsequently, in performing said decontamination, respondent failed to utilize wet cleaning and/or HEPA filtered vacuuming techniques until no visible residue was present in the work area(s), in violation of §§19a-332a-5(g) and/or 19a-332a-12 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(c), 19a-332a-5(e), 19a-332a-5(f), 19a-332a-5(g), 19a-332a-5(h), 19a-332a-6, 19a-332a-12 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 and 20-440 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14 and 19a-17 and 20-440 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 000533 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of eight thousand dollars (\$8,000.00) 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 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 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 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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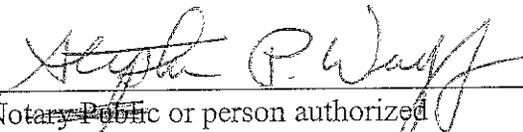
\*

I, Mark Costantini, General Manager and Member of Enviroguard Environmental, L.L.C., have read the above Consent Order, and I represent and warrant that I am fully authorized and empowered to bind said limited liability company. I hereby stipulate and agree to bind Enviroguard Environmental, L.L.C. to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.



Mark Costantini  
General Manager and Member

Subscribed and sworn to before me this 28<sup>th</sup> day of April 2012  
~~2011.~~



Notary Public or person authorized  
by law to administer an oath or affirmation  
*Commissioner of the Superior Court*  
Stephen P. Wright

The above Consent Order having been presented to the duly appointed agent of the  
Commissioner of the Department of Public Health on the 29<sup>th</sup> day of  
June 2012  
~~2011~~, it is hereby accepted.



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

The above Consent Order having been presented to the designee of the Commissioner of the Department of Public Health on the 3<sup>rd</sup> day of July 2012, it is hereby ordered and accepted.

  
\_\_\_\_\_  
Stacy M. Schulman, Esq., Hearing Officer  
Commissioner's Designee

**CERTIFICATION**

I hereby certify that, pursuant to Connecticut General Statutes Section 4-180(c), a copy of the foregoing Final Memorandum of Decision was sent this 3<sup>rd</sup> day of July 2012 certified mail return receipt requested and first class mail:

Mark Constantini, President  
Enviroguard Environmental, LLC  
81 Silvermine Road  
Seymour CT 06483

*and E-Mail to:*

Matthew Antonetti, Principal Attorney  
Legal Office, MS#12LEG  
Department of Public Health  
410 Capitol Avenue  
P. O. Box 340308  
Hartford CT 061343-0308

  
Janice E. Wojick, Hearings Liaison