

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

In re: Abatement Services, L.L.C.

Petition No. 2011-14

**CONSENT ORDER**

WHEREAS, Abatement Services, L.L.C. of West Hartford, CT (hereinafter "respondent") has been issued license number 000604 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 July 2011, respondent performed an asbestos abatement project in connection with the renovation of an elder care facility located at 157 Hillside Avenue, Waterbury, Connecticut (hereinafter "the property"). Said project involved the removal of asbestos containing pipe insulation and ceiling tiles.
2. On or about July 6, 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");
  - 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 the polyethylene sheeting had been cut in order to access a sink and an electrical outlet;

- c. 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 two (2) workers were working without wearing any personal protective equipment;
  - d. failed to place all asbestos containing waste in leak-tight container and to appropriately label said asbestos waste containers, as required by §§19a-332a-5(j) and/or 19a-332a-5(k) of the Regulations, in that used tyvek suits were in an unsealed bag outside of the work area;
  - e. failed to properly construct, maintain or operate a worker decontamination system, as required by §19a-332a-6 of the Regulations, including, without limitation, failure to supply warm water to the shower room; and/or
  - f. failed to ensure that no person leave the work area unless first decontaminated by showering, wet washing or HEPA vacuuming, as required by §19a-332a-6(b) of the Regulations in that two (2) workers exited the work area without first decontaminating.
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(f), 19a-332a-5(j), 19a-332a-5(k), 19a-332a-6 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 000604 to practice as an asbestos contractor in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of six thousand two hundred and fifty dollars (\$6,250.00) 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 Chapter 400a 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.

I, Robert Bertolette, Member and General Manager of Abatement Services, L.L.C., have read the above Consent Order, and I represent and warrant that I am fully authorized to bind said company. I hereby stipulate and agree to bind Abatement Services, 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.

*Robert Bertolette*

Robert Bertolette, Member and General Manager

Subscribed and sworn to before me this 16<sup>th</sup> day of May 2012.

*Roxana R. Hershenson*

Notary Public or person authorized  
by law to administer an oath or affirmation

*Commissioner of Superior Court*

The above Consent Order having been presented to the duly appointed agent of the

Commissioner of the Department of Public Health on the 24<sup>th</sup> day of May 2012, it is hereby accepted.

*Suzanne Blancaflor*

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

s:llf/Abtrmt Srvc