

MINUTES OF MEETING

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS INFORMAL FACT-FINDING CONFERENCES JULY 23, 2004

The Board for Asbestos, Lead, and Home Inspectors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Richard Honeycutt, Board member, presided. No other Board members were present.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conference was recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application
RF=Recovery Fund Claim
Trades=Tradesmen Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
W=Witness
Atty = Attorney
S = Staff Member

Participants

- | | |
|--|--------------------|
| 1. Paint City Contractors, Inc.
File Number 2003-00915 (Discp) | None |
| 2. Holmes Environmental, Inc.
File Number 2004-04790 (Lic) | Joseph Kossan -- S |
| 3. Ethel Mae Holmes
File Number 2004-04102 (Discp)
(Asbestos Project Monitor) | Susan Helbert -- W |
| 4. Ethel Mae Holmes
File Number 2004-04103 (Discp)
(Asbestos Management Planner) | Susan Helbert -- W |

5. Ethel Mae Holmes
File Number 2004-04104 (Discp)
(Asbestos Inspector)

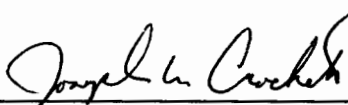
Susan Helbert -- W

6. Ethel Mae Holmes
File Number 2004-04105 (Discp)
(Asbestos Project Designer)

Susan Helbert -- W

The meeting adjourned at 4:30 p.m.

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS



Joseph W. Crockett, Acting Chairperson


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Paint City Contractors, Inc.

File Number: 2003-00915
License Number: 3358000200

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On March 26, 2004, the Notice of Informal Fact-Finding Conference (Notice), in regard to the May 6, 2004, Informal Fact-Finding Conference (IFF Conference), was mailed to the Regulant at the address of record (4054 North Point Road, Baltimore, MD 21222). It was returned by the United State Postal Service (USPS) marked "unclaimed" and the USPS indicated a new address of P.O. Box 25759, Baltimore, MD 21215. The IFF Conference was rescheduled to July 23, 2004. On June 2, 2004, notification of the rescheduled IFF Conference was mailed on June 2, 2004, to the Regulant at the address of record, the new address identified by the USPS, and to the address listed on the investigator's Participant List. Each envelope was returned by the USPS marked "unclaimed".

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Douglas W. Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member. Neither Paint City Contractors, Inc., nor anyone on its behalf, attended the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

Count 1: Board Regulation (Effective October 1995)

Paint City Contractors, Inc.'s conviction of one felony count of Scheme to Defraud in the State of New York, Orange County Court, is a violation of Board Regulation 18 VAC 15-30-810.A.6. Therefore, I recommend revocation of Paint City's license be imposed.

Count 2: Board Regulation (Effective October 1995)

On March 7, 2002, Paint City was convicted of a felony. Paint City failed to report the conviction in writing to the board. Paint City Contractors, Inc.'s failure to notify the board in writing within 30 days of being convicted of a felony is a violation of Board Regulation 18 VAC 15-30-810.A.7. Therefore, I recommend that a monetary penalty of \$2,500.00 and revocation of Paint City's license be imposed.

By: _____
Richard Honeycutt
Presiding Board Member

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND VIRGINIA 23230-4917

INFORMAL FACT FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Virginia Board for Asbestos, Lead, and Home Inspectors
DATE: May 9, 2003; Revised: February 5, 2004; Revised: February 9,
2004
RE: 2003-00915; Board for Asbestos, Lead, and Home Inspectors v.
Paint City
Contractors, Inc.

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:
3358000200

EXPIRATION DATE OF LICENSE:
10-31-2003

INVESTIGATOR: Noelle B. Phillips
INVESTIGATIONS ADMINISTRATOR: Kevin E. Hoeft

COMMENTS:

On October 22, 1998, Lead Abatement Contractor License Number 3358000200
was issued to Paint City Contractors Inc.

2003-00915; Board for Asbestos, Lead, and Home Inspectors v. Paint City Contractors, Inc.

1. Violation of Board Regulation (Effective October 1995)

18 VAC 15-30-810(A)(6)

FACTS:

On September 24, 2002, Kevin Hoeft, Investigations Administrator of the Enforcement Division for the Department of Professional and Occupation Regulation, received information that on or about March 7, 2002, in Orange County Court, State of New York, Paint City Contractors, Inc. ("Paint City") was convicted of one felony count, Scheme to Defraud. (Exh. C-1; C-2)

On or about March 7, 2002, in the State of New York, Orange County Court, "Paint City" was convicted of one felony count of Scheme to Defraud. (Exh. I-1) No appeal is pending and Paint City Contractors, Inc.'s right to appeal has expired. (Exh. I-1)

2. Violation of Board Regulation (Effective October 1995)

18 VAC 15-30-810(A)(7)

FACTS:

On or about March 7, 2002, in the State of New York, Orange County Court, "Paint City" was convicted of one felony count of Scheme to Defraud. (Exh. I-1) No appeal is pending and Paint City Contractors, Inc.'s right to appeal has expired. (Exh. I-1)

Paint City Contractors, Inc. failed to report the felony within thirty days of conviction to the Board for Asbestos, Lead, and Home Inspectors. (Exh. I-3)

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Holmes Environmental, Inc.

File Number: 2004-04790
License Number: 3333000185

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 17, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ethel Mae Holmes ("Holmes"), President, Holmes Environmental, Inc. ("HEI") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service marked "Unclaimed".

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Doug Schroder and Joseph Kossan, Staff Members; and Richard Honeycutt, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

Count 1: Board Regulation (Effective January 2, 2002)

Holmes Environmental, Inc.'s actions of performing Polarized Light Microscopy (PLM) analysis without applying for and receiving from the Board a change of license status to conduct PLM analysis is in violation of Board Regulation 18 VAC 15-20-459.4.C.

HEI's accreditation from the National Voluntary Laboratory Accreditation Program (NAVLAP) to conduct PLM expired June 30, 2002. On February 11, 2004, Joseph Kossan ("Kossan") visited HEI to conduct an on-site examination to determine compliance with Board's regulations. HEI's President, Ethel Holmes, admitted to Kossan that HEI performed PLM analysis without the proper accreditation from NAVLAP. HEI intentionally failed to comply with NAVLAP and the Board's regulations. HEI's intentional disregard for the necessity to abide by regulations is

troubling and raises concern that HEI may do so again in the future. Therefore, I recommend that the renewal of Holmes Environmental, Inc.'s Asbestos Analytical Laboratory license be denied.

By: _____
Richard Honeycutt
Presiding Board Member

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Date: _____



**REGULATORY PROGRAMS DIVISION
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM**

To: Adjudication Section, Enforcement Division Date: May 27, 2004

From: David E. Dick

Board: Asbestos, Lead, and Home
Inspectors

Re: Holmes Environmental, Inc.

Licensed Asbestos Analytical Laboratory, 3333 000185

Reviewed By: David E. Dick

IFF Requested by Whom: David E. Dick

When: May 27, 2004

Requested by: David E. Dick

**COMMENTS: AS A LICENSED ASBESTOS ANALYTICAL LABORATORY, HOLMES
ENVIROMENTAL, INC IS REQUIRED TO APPLY FOR AND BECOME LICENSED TO CONDUCT
POLARIZED LIGHT MICROSCOPY (PLM) BEFORE CONDUCTING LABORATORY ANALYSIS
USING PLM.**

BASIS UPON WHICH REGULANT MAY NOT BE IN COMPLIANCE WITH BOARD

REGULATORY REQUIREMENTS:

□ REGULATORY REQUIREMENT DEFICIT(S)

Pursuant to Board Regulation §§: 18 VAC 15-20-450.A.1 and 18 VAC 15-20-459.4 C (Effective January 2, 2002).

FACTS: (Include information that specifically addresses why the regulant does not satisfy the Section of the Code or Regulation cited above.)

- Holmes Environmental Inc. was initially licensed as an Asbestos Analytical Laboratory on January 17, 1997.
- Holmes Environmental Inc. did not maintain their accreditation from the National Voluntary Laboratory Accreditation Program (NAVLAP) to conduct Polarized Light Microscopy (PLM). The accreditation expired on June 30, 2002.

On February 11, 2004, Joseph C. Kossan, Assistant Administrator, visited Holmes Environmental, Inc. for the purpose of conducting an on-site examination to determine compliance with the Board's regulations.

During that visit, Ethel Holmes, the President of Holmes Environmental, Inc., stated to Mr. Kossan by telephone that her laboratory performs analysis by PLM but did not maintain the accreditation from NAVLAP that is required by 18 VAC 15-20-361 B to qualify for a license to perform PLM analysis.

Ms. Holmes stated that they did not need to maintain NAVLAP approval for PLM because they performed so few PLM analyses.

- Exhibit 1 – Memorandum dated April 27, 2004 from Joseph Kossan to David Dick describing the results of his on-site examination to determine compliance with the Board's regulations.

The analysis of suspect samples for the presence of asbestos using PLM without first applying for and receiving from the Board a change of license status to conduct PLM analysis does not comply with the provisions of 18 VAC 15-20-459.4 C.

Section 18 VAC 15-20-450. Grounds for disciplinary action.

- A. The Board shall have the authority to fine any licensee or accredited asbestos training program, accredited asbestos training provider or instructor, and to deny renewal, suspend, revoke or deny application for any license or approval as an accredited asbestos training program, accredited asbestos training provider or instructor provided for under Chapter 5 (§ 54.1-500 et seq.) of Title 54.1 of the Code of Virginia for:
1. Violating or inducing another person to violate any of the provisions of Chapter 1, 2, 3, or 5 of Title 54.1 of the Code of Virginia, or any of the provisions of this chapter.

18 VAC 15-20-459.4. Change of status.

- C. The licensee shall notify the board, in writing, if the analysis to be performed is different from the type of analysis in which the initial license was issued. The licensee shall submit a new application reflecting the changes and submit the qualifications required by this chapter to perform the analysis. The above information shall be submitted to the board prior to performing the analysis. No additional fees are required to upgrade the analytical laboratory license.

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Ethel Mae Holmes

File Number: 2004-04102
License Number: 33 09 000187

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 17, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ethel Mae Holmes to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service marked unclaimed.

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Assistant Special Agent in Charge Susan Helbert, Witness; Doug Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, and in consideration of the criteria outlined in § 54.1-204, the following is recommended regarding the Count(s) as outlined in the IFF Memorandum:

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

- B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:
1. The nature and seriousness of the crime;

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

Holmes' actions involved, in part, obtaining false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Holmes performed asbestos abatement related work with improperly trained and/or licensed individuals.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. The asbestos industry is fraught with health hazards for the public and workers. The purpose of licensure is to protect the public from untrained individuals improperly handling and disposing of asbestos. Licensure also ensures that workers receive necessary training to avoid adverse health risks to them from exposure. During the IFF, the E.P.A. special agent testified the government had evidence that Holmes improperly performed her duties on several projects. Holmes was removed from at least one project for poor performance. Holmes also failed to identify ACM on another project.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it appears that allowing Holmes to remain a licensee offers the potential for continued activity of this nature.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

There is a direct relationship between the crimes and Holmes's ability to perform the regulated activity. The training of Holmes's employees was improper or nonexistent; consequently, both the health of the employees and the general public could be affected.

5. The extent and nature of the person's past criminal activity;

Based on the information contained in the file, Holmes was found guilty of at least twelve federal felonies.

6. The age of the person at the time of the commission of the crime;

Holmes was between the age of 37 and 41 at the time of the commission of these crimes.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about 2001.

8. The conduct and work activity of the person prior to and following the criminal activity; and

From at least 1998 and until the present, Holmes was president and owner of Holmes environmental Inc. ("HEI"). HEI worked in the asbestos and lead abatement industry as a project designer, monitor, and inspector on jobs at federal, state, and public facilities.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

There was no evidence of rehabilitative efforts presented during the IFF Conference.

Count 1: Board Regulation (Effective January 2, 2002)

Having been found guilty of 12 felonies, Ethel Mae Holmes's actions are in violation of Board Regulation 18 VAC 15-20-450.A.6. Therefore, I recommend revocation of Holmes's license be imposed.

Count 2: Board Regulation (Effective January 2, 2002)

Having been found guilty by the federal court of conspiracy to commit false statements, mail fraud, and making false statements in the course of submitting bid proposals and issuing final reports related to asbestos abatement projects, Holmes's actions are in violation of Board regulation 18 VAC 15-20-450.A.5.

Homes obtained false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Therefore, I recommend a monetary penalty of \$1,000.00 and revocation of Holmes's license be imposed.

By:

Richard Honeycutt
Presiding Board Member

Board for Asbestos, Lead, and Home Inspectors

Date: _____

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Board for Asbestos, Lead, and Home Inspectors
DATE: April 12, 2004
RE: 2004-04102, 2004-04103, 2004-04104, 2004-04105
Ethel Mae Holmes

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:

33 09 187 Asbestos Project Monitor
33 04 241 Asbestos Management Planner
33 03 407 Asbestos Inspector
33 05 673 Asbestos Project Designer

EXPIRATION DATE OF LICENSE:

05-31-2004 Asbestos Project Monitor
06-30-2004 Asbestos Management Planner
11-30-2004 Asbestos Inspector
11-30-2003 Asbestos Project Designer

INVESTIGATOR: Stacy C. Payne
ASSISTANT DIRECTOR: M. Wayne Brown

COMMENTS:

2004-04102, 2004-04103, 2004-04104, 2004-04105 - Ethel Mae Holmes

1. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(6)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282. Holmes is scheduled to be sentenced by the court on June 23, 2004.

2. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(5)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

Holmes' actions involved, in part, obtaining false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Holmes performed asbestos abatement related work with improperly trained and/or licensed individuals.

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Ethel Mae Holmes

File Number: 2004-04103
License Number: 33 04 000241

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 17, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ethel Mae Holmes to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service marked unclaimed.

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Assistant Special Agent in Charge Susan Helbert, Witness; Doug Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, and in consideration of the criteria outlined in § 54.1-204, the following is recommended regarding the Count(s) as outlined in the IFF Memorandum:

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony

counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

Holmes' actions involved, in part, obtaining false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Holmes performed asbestos abatement related work with improperly trained and/or licensed individuals.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. The asbestos industry is fraught with health hazards for the public and workers. The purpose of licensure is to protect the public from untrained individuals improperly handling and disposing of asbestos. Licensure also ensures that workers receive necessary training to avoid adverse health risks to them from exposure. During the IFF, the E.P.A. special agent testified the government had evidence that Holmes improperly performed her duties on several projects. Holmes was removed from at least one project for poor performance. Holmes also failed to identify ACM on another project.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it appears that allowing Holmes to remain a licensee offers the potential for continued activity of this nature.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

There is a direct relationship between the crimes and Holmes's ability to perform the regulated activity. The training of Holmes's employees was improper or nonexistent; consequently, both the health of the employees and the general public could be affected.

5. The extent and nature of the person's past criminal activity;

Based on the information contained in the file, Holmes was found guilty of at least twelve federal felonies.

6. The age of the person at the time of the commission of the crime;

Holmes was between the age of 37 and 41 at the time of the commission of these crimes.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about 2001.

8. The conduct and work activity of the person prior to and following the criminal activity; and

From at least 1998 and until the present, Holmes was president and owner of Holmes environmental Inc. ("HEI"). HEI worked in the asbestos and lead abatement industry as a project designer, monitor, and inspector on jobs at federal, state, and public facilities.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

There was no evidence of rehabilitative efforts presented during the IFF Conference.

Count 1: Board Regulation (Effective January 2, 2002)

Having been found guilty of 12 felonies, Ethel Mae Holmes's actions are in violation of Board Regulation 18 VAC 15-20-450.A.6. Therefore, I recommend revocation of Holmes's license be imposed.

Count 2: Board Regulation (Effective January 2, 2002)

Having been found guilty by the federal court of conspiracy to commit false statements, mail fraud, and making false statements in the course of submitting bid proposals and issuing final reports related to asbestos abatement projects, Holmes's actions are in violation of Board regulation 18 VAC 15-20-450.A.5.

Homes obtained false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain

asbestos abatement related contracts. Therefore, I recommend a monetary penalty of \$1,000.00 and revocation of Holmes's license be imposed.

By:

Richard Honeycutt
Presiding Board Member

Board for Asbestos, Lead, and Home Inspectors

Date:

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Board for Asbestos, Lead, and Home Inspectors
DATE: April 12, 2004
RE: 2004-04102, 2004-04103, 2004-04104, 2004-04105
Ethel Mae Holmes

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:

33 09 187 Asbestos Project Monitor
33 04 241 Asbestos Management Planner
33 03 407 Asbestos Inspector
33 05 673 Asbestos Project Designer

EXPIRATION DATE OF LICENSE:

05-31-2004 Asbestos Project Monitor
06-30-2004 Asbestos Management Planner
11-30-2004 Asbestos Inspector
11-30-2003 Asbestos Project Designer

INVESTIGATOR: Stacy C. Payne
ASSISTANT DIRECTOR: M. Wayne Brown

COMMENTS:

3. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(6)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282. Holmes is scheduled to be sentenced by the court on June 23, 2004.

4. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(5)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

Holmes' actions involved, in part, obtaining false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Holmes performed asbestos abatement related work with improperly trained and/or licensed individuals.

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Ethel Mae Holmes

File Number: 2004-04104
License Number: 33 05 000407

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 17, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ethel Mae Holmes to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service marked unclaimed.

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Assistant Special Agent in Charge Susan Helbert, Witness; Doug Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, and in consideration of the criteria outlined in § 54.1-204, the following is recommended regarding the Count(s) as outlined in the IFF Memorandum:

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony

counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

Holmes' actions involved, in part, obtaining false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Holmes performed asbestos abatement related work with improperly trained and/or licensed individuals.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. The asbestos industry is fraught with health hazards for the public and workers. The purpose of licensure is to protect the public from untrained individuals improperly handling and disposing of asbestos. Licensure also ensures that workers receive necessary training to avoid adverse health risks to them from exposure. During the IFF, the E.P.A. special agent testified the government had evidence that Holmes improperly performed her duties on several projects. Holmes was removed from at least one project for poor performance. Holmes also failed to identify ACM on another project.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it appears that allowing Holmes to remain a licensee offers the potential for continued activity of this nature.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

There is a direct relationship between the crimes and Holmes's ability to perform the regulated activity. The training of Holmes's employees was improper or nonexistent; consequently, both the health of the employees and the general public could be affected.

5. The extent and nature of the person's past criminal activity;

Based on the information contained in the file, Holmes was found guilty of at least twelve federal felonies.

6. The age of the person at the time of the commission of the crime;

Holmes was between the age of 37 and 41 at the time of the commission of these crimes.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about 2001.

8. The conduct and work activity of the person prior to and following the criminal activity; and

From at least 1998 and until the present, Holmes was president and owner of Holmes environmental Inc. ("HEI"). HEI worked in the asbestos and lead abatement industry as a project designer, monitor, and inspector on jobs at federal, state, and public facilities.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

There was no evidence of rehabilitative efforts presented during the IFF Conference.

Count 1: Board Regulation (Effective January 2, 2002)

Having been found guilty of 12 felonies, Ethel Mae Holmes's actions are in violation of Board Regulation 18 VAC 15-20-450.A.6. Therefore, I recommend revocation of Holmes's license be imposed.

Count 2: Board Regulation (Effective January 2, 2002)

Having been found guilty by the federal court of conspiracy to commit false statements, mail fraud, and making false statements in the course of submitting bid proposals and issuing final reports related to asbestos abatement projects, Holmes's actions are in violation of Board regulation 18 VAC 15-20-450.A.5.

Homes obtained false asbestos initial and refresher training certificates for herself and employees of her company, Holmes Environmental, Inc. Holmes submitted these false training certificates to the Asbestos, Lead, and Home Inspectors ("the Board") to obtain or renew asbestos licenses. Holmes also submitted the false

training certificates and/or improperly obtained asbestos licenses to federal, state, and local governmental agencies, as well as to private facilities, in order to obtain asbestos abatement related contracts. Therefore, I recommend a monetary penalty of \$1,000.00 and revocation of Holmes's license be imposed.

By: _____
Richard Honeycutt
Presiding Board Member

Board for Asbestos, Lead, and Home Inspectors

Date: _____

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Board for Asbestos, Lead, and Home Inspectors
DATE: April 12, 2004
RE: 2004-04102, 2004-04103, 2004-04104, 2004-04105
Ethel Mae Holmes

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:

33 09 187 Asbestos Project Monitor
33 04 241 Asbestos Management Planner
33 03 407 Asbestos Inspector
33 05 673 Asbestos Project Designer

EXPIRATION DATE OF LICENSE:

05-31-2004 Asbestos Project Monitor
06-30-2004 Asbestos Management Planner
11-30-2004 Asbestos Inspector
11-30-2003 Asbestos Project Designer

INVESTIGATOR: Stacy C. Payne
ASSISTANT DIRECTOR: M. Wayne Brown

COMMENTS:

2004-04102, 2004-04103, 2004-04104, 2004-04105 - Ethel Mae Holmes

5. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(6)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282. Holmes is scheduled to be sentenced by the court on June 23, 2004.

6. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A)(5)

FACTS:

On March 23, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Ethel Mae Holmes ("Holmes") was found guilty of Conspiracy to Commit False Statements and/or False Documents, a felony, in violation of 18 U.S.C. § 371; seven (7) felony counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

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**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Re: Ethel Mae Holmes

File Number: 2004-04105
License Number: 33 05 000673

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 17, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ethel Mae Holmes to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service marked unclaimed.

On July 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Assistant Special Agent in Charge Susan Helbert, Witness; Doug Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, and in consideration of the criteria outlined in § 54.1-204, the following is recommended regarding the Count(s) as outlined in the IFF Memorandum:

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

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counts of Mail Fraud, in violation of § 1341 and 1342; and four (4) felony counts of False Claims, in violation of 18 U.S.C. § 287 and 282.

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By: _____
Richard Honeycutt
Presiding Board Member

Board for Asbestos, Lead, and Home Inspectors

Date: _____

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Board for Asbestos, Lead, and Home Inspectors
DATE: April 12, 2004
RE: 2004-04102, 2004-04103, 2004-04104, 2004-04105
Ethel Mae Holmes

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33 04 241 Asbestos Management Planner
33 03 407 Asbestos Inspector
33 05 673 Asbestos Project Designer

EXPIRATION DATE OF LICENSE:

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06-30-2004 Asbestos Management Planner
11-30-2004 Asbestos Inspector
11-30-2003 Asbestos Project Designer

INVESTIGATOR: Stacy C. Payne
ASSISTANT DIRECTOR: M. Wayne Brown

COMMENTS:

2004-04102, 2004-04103, 2004-04104, 2004-04105 - Ethel Mae Holmes

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**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Richard Honeycutt
2. Title: Presiding Officer/Board Member
3. Agency: Asbestos, Lead & Home Inspectors
4. Transaction: Informal Fact-Finding Conferences on 7-23-04
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Home Carpentry project

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Richard Honeycutt
Signature

7-23-04
Date