

**DEFAULT  
REPORT &  
RECOMMENDATION**

IN THE MATTER OF

**A. SARAH INTERNATIONAL CORP.**

for a determination pursuant to Section 909 of the New York Labor Law that violations of Labor Law, Article 30 and/or Code Rule 56 took place as hereinafter described

Asbestos Case Nos.

25786191, 25793184  
25830543, 25830545  
25830547, 25836194  
25836197, 25836198  
25836199, 25836202  
25836204, 25836206  
25836207, 25836208  
25836209, 25836211  
25836212, 25836213  
25836376, 25836378  
25872058, 25883213  
25883684, 25885419  
25896385

To: Honorable Peter M. Rivera  
Commissioner of Labor  
State of New York

Pursuant to a Notice of Hearing issued in this matter, a video hearing was held on October 9, 2012, between Albany, New York and New York, New York. The purpose of the hearing was to provide all parties an opportunity to be heard on the issues raised in the Notice of Hearing and to establish a record from which the Hearing Officer could prepare this Report and Recommendation for the Commissioner of Labor.

The hearing concerned an investigation conducted by the Asbestos Control Bureau (“Bureau”) of the Division of Safety and Health of the New York State Department of Labor (“Department”) into whether A. Sarah International Corp. (“Respondent”) complied with the requirements of Article 30 of the Labor Law (§§ 900 *et seq.*) or 12 NYCRR part 56 when it undertook twenty-five (25) asbestos abatement projects located at: 474 Riverside Drive, New York, NY (“474 Riverside Drive Project”); 2105 East 4<sup>th</sup> Street, Brooklyn, NY (“2105 East 4<sup>th</sup> Street Project”); 880 Pacific Street, Brooklyn, NY (“880 Pacific Street”); 20 West 102<sup>nd</sup> Street, New York, NY (“20 West 102<sup>nd</sup> Street Project”); 1151 East 229<sup>th</sup> Street, Bronx, NY (“1151 East

229<sup>th</sup> Street Project”); 230 W. 125<sup>th</sup> Street, New York, NY (“230 W. 125<sup>th</sup> Street Project”); 1175 E. 225<sup>th</sup> Street, Bronx, NY (“1175 E. 225<sup>th</sup> Street Project”); 1181 E. 225<sup>th</sup> Street, Bronx, NY (“1175 E. 225<sup>th</sup> Street Project”); 1155 E. 225<sup>th</sup> Street, Bronx, NY (“1155 E. 225<sup>th</sup> Street Project”); 1161 E. 225<sup>th</sup> Street, Bronx, NY (“1175 E. 225<sup>th</sup> Street”); 1195 E. 225<sup>th</sup> Street, Bronx, NY (“1195 E. 225<sup>th</sup> Street”); 1855 Schieffelin, Bronx, NY (“1855 Schieffelin Project”); 1159 229<sup>th</sup> Drive N., Bronx, NY (“1159 229<sup>th</sup> Drive N. Project”); 1138 229<sup>th</sup> Drive S., Bronx, NY (“1138 229<sup>th</sup> Drive S., Bronx Project”); 1154 229<sup>th</sup> Drive S., Bronx, NY (“1154 229<sup>th</sup> Drive S., Project”); 1175 E. 229<sup>th</sup> Street, Bronx, NY (“1175 E. 229<sup>th</sup> Drive Project”); 1160 229<sup>th</sup> Drive S, Bronx, NY (“1160 229<sup>th</sup> Drive S Project”); 594 Bergen Street, Brooklyn, NY (“594 Bergen Street Project”); 177 West 83<sup>rd</sup> Street, New York, NY (“177 West 83<sup>rd</sup> Street Project”); 2107 East 4<sup>th</sup> Street, Brooklyn, NY (“2107 East 4<sup>th</sup> Street Project”); 2109 East 4<sup>th</sup> Street, Brooklyn, NY (“2109 East 4<sup>th</sup> Street Project”); 8700 25<sup>th</sup> Avenue, Brooklyn, NY (“8700 25<sup>th</sup> Avenue Project”); 14 West 102<sup>nd</sup> Street, New York, NY (“14 West 102<sup>nd</sup> Street Project”); 497 West 129<sup>th</sup> Street, New York, NY (“497 West 129<sup>th</sup> Street Project”); 317-319 Trog Avenue, Brooklyn, NY (“317-319 Trog Avenue Project”)

### **APPEARANCES**

The Bureau was represented by Department Counsel, Pico Ben-Amotz, (Steven J. Pepe, Senior Attorney, of Counsel).

There were no appearances made by or on behalf of Respondent.

### **HEARING OFFICER DESIGNATION**

John W. Scott was designated as Hearing Officer and conducted the hearing in this matter.

### **FINDINGS AND CONCLUSIONS**

On August 15, 2012, the Department duly served copies of the Notice of Hearing on Respondent by certified mail, return receipt requested, and first class mail. The Department produced an Affidavit of Service and an Affidavit from Attorney Steven J. Pepe indicating that, although he has not received a confirmation of delivery receipt for the certified mailings, the

certified mailings and the first class mailings have not been returned. (Hearing Officer Ex 2). The Notice of Hearing scheduled an October 9, 2012 hearing and required that the Respondent serve an Answer at least 14 days in advance of the scheduled hearing.

Respondent failed to answer the charges contained in the Notice of Hearing or appear at the hearing. As a consequence, Respondent is in default in this proceeding.

At the hearing, the Department produced sworn and credible evidence substantially supporting the Department's charges that Respondent violated the particular provisions of the Labor Law article 30 and 12 NYCRR part 56 that are hereinafter particularized. Additionally, the Department produced credible evidence indicating that the respondent had stipulated to prior similar violations of Labor Law article 30 and 12 NYCRR part 56.

### **RECOMMENDATIONS**

Based upon the default of the Respondent in timely answering and contesting the charges contained in the Department's Notice of Hearing, and upon the sworn testimonial and documentary evidence adduced at the hearing in support of those charges, I recommend that the Commissioner of Labor make the following determinations and orders in connection with the issues raised in this case:

#### **474 RIVERSIDE DRIVE PROJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project. (DOL Exs. 5, 6; T. 13)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$750.00 for this Labor Law violation.

## **2105 EAST 4<sup>TH</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project. (DOL Exs. 7, 8; T. 13-14)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$750.00 for this Labor Law violation.

## **880 PACIFIC STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project. (DOL Exs. 9, 10; T. 14, 15)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$750.00 for this Labor Law violation.

## **20 WEST 102<sup>ND</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who

proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project. (DOL Exs. 11, 12; T. 16)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$750.00 for this Labor Law violation.

### **1151 EAST 229<sup>TH</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of Labor Law as follows:

Labor Law § 904.2, Notice and recordkeeping requirements: Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify ... the Commissioner in writing ten days prior to the commencement of work on the project ... . The notice to the Commissioner ... shall be accompanied by the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which it underreported the type and amount of asbestos containing material (DOL Ex. 3, 13, 14, 15; T. 17-19). The Respondent failed to pay the full notification fee at the time of the notification. (DOL Ex. 15; T. 19) The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,000.00 for this Labor Law violation.

### **230 W. 125<sup>TH</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 New York City Department of Environmental Protection (“NYCDEP”) computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the

required notification fee of \$400.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

#### **1175 E. 225<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

#### **1181 E. 225<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

#### **1155 E. 225<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16;

T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

### **1161 E. 225<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

### **1195 E. 225<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

### **1855 SCHIEFFELIN PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16;

T. 21-22) or pay the required notification fee of \$200.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

### **1159 229<sup>th</sup> DRIVE N. PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$2,200.00 at the time of the notification. The full notification fee was not subsequently paid in full and the Respondent still owes \$1,200.00 of the applicable notification fee. (DOL Ex. 48)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$1,200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

### **1138 229<sup>th</sup> DRIVE S. PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau or pay the required notification fee of \$2,200.00. (DOL Exs. 3, 4, 24, 48; T. 21-22)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.



### **1154 229<sup>th</sup> DRIVE S. PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau or pay the required notification fee of \$2,200.00. (DOL Exs. 3, 4, 25, 48; T. 21-22)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

### **1175 E. 229<sup>th</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau or pay the required notification fee of \$2,200.00. (DOL Exs. 3, 4, 26, 48; T. 21-22)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

### **1160 E. 229<sup>th</sup> DRIVE S. PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau or pay the required notification fee of \$200.00. (DOL Exs. 3, 4, 27, 48; T. 21-22)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

#### **594 BERGEN STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau. (DOL Exs. 3, 4, 16; T. 21-22) or pay the required notification fee of \$400.00 at the time of the notification. The full notification fee was subsequently paid. (DOL Ex. 48)

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,500.00 for this Labor Law violation.

#### **177 WEST 83<sup>RD</sup> STREET PROJECT**

DETERMINE that Respondent committed one violation of the Labor Law as follows:

Labor Law § 904 (2) –Notice Requirements: An audit of the 2010 NYCDEP computer list of all notified asbestos abatement projects in the jurisdiction of NYCDEP disclosed that the Respondent notified NYCDEP of this Project, but did not notify the Bureau or pay the required notification fee of \$2,000.00. (DOL Exs. 3, 4, 29, 48; T. 21-23)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2000.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

#### **2107 EAST 4<sup>TH</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of Labor Law as follows:

Labor Law § 904 (2), Notice and recordkeeping requirements: Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify ... the Commissioner in writing

ten days prior to the commencement of work on the project ... . The notice to the Commissioner ... shall be accompanied by the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which it underreported the type and amount of asbestos containing material (DOL Ex. 2, 30; T. 25-27). The Respondent failed to pay the full notification fee and owes an additional notification fee of \$600.00. (DOL Ex. 31, 48; T. 27)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$600.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,000.00 for this Labor Law violation.

### **2109 EAST 4<sup>TH</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of Labor Law as follows:

Labor Law § 904 (2), Notice and recordkeeping requirements: Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify ... the Commissioner in writing ten days prior to the commencement of work on the project ... . The notice to the Commissioner ... shall be accompanied by the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which it underreported the type and amount of asbestos containing material (DOL Ex. 2, 32; T. 28). The Respondent failed to pay the full notification fee and owes an additional notification fee of \$600.00. (DOL Ex. 33, 48; T. 28)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$600.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,000.00 for this Labor Law violation.

## **8700 25<sup>TH</sup> AVENUE PROJECT**

DETERMINE that Respondent committed one (1) violation of Labor Law as follows:

Labor Law § 904 (2), Notice and recordkeeping requirements: Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify ... the Commissioner in writing ten days prior to the commencement of work on the project ... . The notice to the Commissioner ... shall be accompanied by the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which it underreported the type and amount of asbestos containing material (DOL Ex. 2, 34, 35; T. 28). The Respondent failed to pay the full notification fee and owes an additional notification fee of \$200.00. (DOL Ex. 36, 48; T. 29)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$200.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,000.00 for this Labor Law violation.

## **14 WEST 102<sup>ND</sup> STREET PROJECT**

DETERMINE that Respondent committed one (1) violation of Labor Law as follows:

Labor Law § 904 (2), Notice and recordkeeping requirements: Any contractor engaged in an asbestos project involving more than two hundred sixty linear feet or more than one hundred sixty square feet of asbestos or asbestos materials shall notify ... the Commissioner in writing ten days prior to the commencement of work on the project ... . The notice to the Commissioner ... shall be accompanied by the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which it failed to notify the Department ten days prior to the commencement of the project and underreported the type and amount of asbestos containing material (DOL Ex. 2, 37, 38; T. 29-30). The Respondent failed to pay the full notification fee and owes an additional notification fee of \$1,000.00. (DOL Ex. 39, 40, 48; T. 30)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$1,000.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$1,000.00 for this Labor Law violation.

### **497 WEST 129<sup>TH</sup> STREET PRPJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A and pay the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project and failed to pay the notification fee of \$2,000.00. (DOL Exs. 41, 42; T. 31, 33, 48)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,000.00.

DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2,500.00 for this Labor Law violation.

### **317-319 TROG AVENUE PRPJECT**

DETERMINE that Respondent committed one (1) violation of 12 NYCRR part 56 as follows:

12 NYCRR 56-3.4.B.1, Notification, requires that any asbestos abatement contractor who proposes to engage in a large asbestos project shall notify or cause to be notified, in writing, the Asbestos Control Bureau. Such Notice must be received at least ten (10) days prior to commencement of Phase II A and pay the project notification fee.

The Respondent engaged in a large scale asbestos clean-up at this project site for which they did not notify the Asbestos Control Bureau ten (10) days prior to commencement of the asbestos project and failed to pay the notification fee of \$2,000.00. (DOL Exs.43, 44, 45, 48; T. 31-35)

DETERMINE & ORDER that, as required by 12 NYCRR 56-3.4.B.1 and Labor Law § 904 (2), Respondent is liable for and shall pay the unpaid notification fee of \$2,000.00.

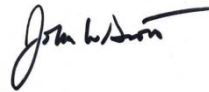
DETERMINE & ORDER that, pursuant to Labor Law § 909 (1) (b), Respondent be assessed the requested civil penalty of \$2500.00 for this Labor Law violation.

**FINALLY**

ORDER that Respondent immediately remit payment to the Division Of Safety & Health, Asbestos Control Bureau, State Office Campus, Building 12, Room 157, Albany, NY 12240 of notification fees in the amount of \$18,400.00 (DOL Ex. 48; T. 37) and civil penalties in the total amount of \$44,000.00, for a total payment in the amount of \$62,400.00 made payable to the Commissioner of Labor, for the 25 violations of Article 30 of the Labor Law (§§ 900 *et seq.*) or 12 NYCRR part 56 in the Projects that are the subject of the within proceeding.

Dated: January 31, 2013  
Albany, New York

Respectfully submitted,



John W. Scott, Hearing Officer