

STATE OF NEW YORK DEPARTMENT OF LABOR

IN THE MATTER OF

PAL ENVIRONMENTAL SERVICES, INC

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

**REPORT
&
RECOMMENDATION**

Asbestos Case Nos.
25814036, 25883607,
25887761, 25904044,
25918474

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

A hearing was held on May 30, 2013, by video conference between Albany, New York and New York, New York, to inquire into and report findings and conclusions, and to make recommendations to the Commissioner of Labor with respect to the issues raised by the investigation conducted by the Asbestos Control Bureau (“Bureau”) of the Division of Safety and Health of the NYS Department of Labor (“Department”). The Bureau investigated whether PAL Environmental Services, Inc. (hereinafter referred to as “PAL”) complied with the requirements of Article 30 of the Labor Law (§§ 900 *et seq.*) or 12 NYCRR 56 (“Code Rule” or “Code Rule 56”) when the Respondents undertook five (5) asbestos projects located at 50 Varick Street, New York, NY (Asbestos Case No. 25814036); JP Morgan Bank, 365 Route 303, Orangeburg, NY (Asbestos Case No. 25883607); 4611 Austin Boulevard, Island Park, NY (Asbestos Case No. 25887761); Con Edison Millwood Substation, 285 Saw Mill Road, Millwood, NY (Asbestos Case No. 25904044); and Nassau Coliseum, 1255 Hempstead Turnpike, Uniondale, NY (Asbestos Case No. 25918474). At the conclusion of the hearing the parties were directed to submit statements on the issue of whether the Nassau Coliseum project constituted an emergency situation and whether the Department’s rules and regulations provide procedures for the situation and/or conditions presented in this project. The parties submitted their statements on or before July 15, 2013.

APPEARANCES

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

PAL appeared on its own behalf by Aric Domezick, Vice President.

ISSUES

- 1) Did PAL violate any of the provisions of Labor Law Article 30 or of Industrial Code Rule 56 in its performance of the above referenced asbestos projects?
- 2) Should a civil penalty be assessed, and if so, in what amount?

HEARING OFFICER DESIGNATION

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

FINDINGS OF FACT

The hearing concerned investigations made by the Bureau of five separate projects involving asbestos removal work performed by PAL. At the hearing the Bureau withdrew the Notices of Violations issued with respect to the projects located at 50 Varick Street, New York, NY (Asbestos Case No. 25814036) and Con Edison Millwood Substation, 285 Saw Mill Road, Millwood, NY (Asbestos Case No. 25904044), and PAL admitted the violations cited by the Bureau in connection with the project located at 4611 Austin Boulevard, Island Park, NY (Asbestos Case No. 25887761). The hearing proceeded with respect to the Notices of Violation issued by the Bureau in connection with the projects located at JP Morgan Bank, 365 Route 303, Orangeburg, NY (Asbestos Case No. 25883607) and Nassau Coliseum, 1255 Hempstead Turnpike, Uniondale, NY (Asbestos Case No. 25918474), and on the issue of whether a civil penalty should be assessed with respect to the project located at 4611 Austin Boulevard, Island Park, NY (Asbestos Case No. 25887761) and if so, in what amount.

JP MORGAN BANK PROJECT

Associate Industrial Hygienist, Christopher Tarbox testified that the Department received an Asbestos Project Notification prepared by PAL indicating that it was to perform asbestos abatement for JP Morgan at 365 Route 303, Orangeburg, New York. (DOL Ex. 1; T. 21-22) After the Bureau received the Asbestos Project Notification the project was referred to Senior Safety and Health Inspector, Peter Russo. (T. 22) Mr. Tarbox testified Mr. Russo inspected the project and created an inspection summary detailing his observations and findings. (DOL Ex. 2, T. 23) The Inspection Summary indicated that Mr. Russo inspected the project on December 2, 2011 and found that the contractor was not present at the project. (T. 24) Mr. Russo observed two negative air trap tubes exiting the building and neither tube was energized. (DOL Ex. 2, T. 24) The Bureau received a communication from the JP Morgan Bank indicating that clearance air samples were collected on December 2, 2011 and the final clearance was not given for the project until December 5, 2011. (DOL Ex. 3, T. 28) Since the negative air pressure machines were not running continually before final clearance was received on this project, Mr. Russo determined that PAL was not performing this asbestos abatement project in accordance with the applicable Code Rule provisions. (DOL Exs. 2, 5, T. 28)

PAL argued that Mr. Russo did not enter the building to inspect the actual negative air machines to determine if they were operating (T. 29-30) and noted that the report does not indicate whether Mr. Russo actually examined the ends of the exhaust tubes to see if there was air flow in the tubes. (T. 31) PAL opined that it was not possible for Mr. Russo to definitively determine from merely looking at the exhaust tubes whether the negative air machines were operating at the time of the inspection. (T. 37, 39) Mr. Tarbox testified that Mr. Russo, as a certified Senior Safety and Health Inspector, had the competence to determine whether the negative air equipment was running by an inspection of the negative air tubes. (T. 45)

PAL further argues that the information received from JP Morgan indicates that the air samples were collected between 7:30am and 12:00noon on December 2, 2011. (DOL Ex. 3, T. 31-32) PAL further argues that, if the samples were analyzed and the results communicated to PAL before Mr. Russo inspected the project at 3:15pm on December 2, 2011 (DOL Ex. 4, T. 32), it would be permissible under the applicable Code Rule sections for PAL to have shut down the negative air machines before the inspection. (T. 33-34) PAL produced clearance air sample

analysis reports for this project indicating that the samples were analyzed on December 2, 2011. (PAL Ex. 1) However, PAL did not produce evidence that the results were communicated to PAL before Mr. Russo commenced his inspection on December 2, 2011 (T. 38-39, 42) Mr. Russo's report indicates that clearance was received on December 3, 2011. (DOL Ex. 2)

Based upon the observation that the negative air trap tubes exiting the building were not energized at a time prior to the receipt of final clearance for the project, the Department Inspector issued to PAL a Notice of Violation and Order to Comply, which contained one violation (DOL Ex. 5, T. 27):

56-7.7 12 NYCRR 56-7.8.A.1 Engineering Controls.

- (a) **Negative Air Pressure Equipment.** All OSHA Class I, Class III, and interior Class II asbestos abatement projects shall employ negative air pressure equipment ventilation.
 - (1) **Operation.** The negative air pressure equipment shall operate continuously, twenty-four (24) hours a day, from startup of negative air pressure equipment, through the cleanup operations and satisfactory clearance air sampling results being obtained, or the asbestos project is complete.

4611 AUSTIN BOULEVARD PROJECT

Immediately prior to the commencement of the hearing PAL admitted the violations issued on this project and the parties agreed that this project would be litigated on the issue of whether a civil penalty should be assessed and if so, in what amount. No proof was offered by the Bureau or PAL with respect to this project. Attached to the Notice of Hearing is a Notice of Violation and Order to Comply (Hearing Officer Ex. 1), which contained two violations:

56-11.6 Exterior Project Removal of Non-friable ACM Roofing, Siding, Caulking, Glazing Compound, Transite, Tars, Sealers, Coatings, and Other NOB ACMs. The following Phase II abatement procedures shall apply for exterior removal of non-friable asbestos-containing roofing, siding, caulking, glazing compound, transite, tars, sealers, coatings, and other NOB ACMs, currently in a non-friable intact condition, unless the ACM is rendered friable during removal or debris falls within the building/structure. The asbestos project shall then be completed in accordance with all requirements of this Part, except Special Projects Subpart 56-11.

(b) **Regulated Abatement Work Area Preparation**

- (4) **Critical Barriers.** Prior to the placement of critical barriers, affected surfaces shall be pre-cleaned using HEPA-filtered vacuum equipment and wet cleaning methods. All openings within the regulated abatement work area shall be

sealed with critical barriers installed as per Section 56-7.11(a), prior to beginning Phase II B activity on the project. The critical barriers shall be removed only after satisfactory clearance air sampling results have been obtained or the asbestos project is complete. The requirements of Section 56-7.11(b-e) do not apply. Additional requirements are as follows:

(i) **Roofs:**

a. All openings (including operable windows, doors, ducts, grilles, communicating openings, etc.) one (1) story above and one (1) story below the roof level of the regulated abatement work area (this includes any building/structure within twenty-five (25) feet of the immediate work area), shall be sealed directly with two (2) layers of at least six (6) mil flame-retardant plastic sheeting. All vent openings which cannot be sealed shall be extended vertically a minimum of eight (8) feet and remain in operation.

56-11.7 Exterior Project Removal of Non-friable ACM Roofing, Siding, Caulking, Glazing Compound, Transite, Tars, Sealers, Coatings, and Other NOB ACMs. The following Phase II abatement procedures shall apply for exterior removal of non-friable asbestos-containing roofing, siding, caulking, glazing compound, transite, tars, sealers, coatings, and other NOB ACMs, currently in a non-friable intact condition, unless the ACM is rendered friable during removal or debris falls within the building/structure. The asbestos project shall then be completed in accordance with all requirements of this Part, except Special Projects Subpart 56-11.

(d) Clean-Up Procedures During Abatement. The following clean-up procedures shall be performed during abatement.

- (1) Visible accumulations of loose asbestos containing waste material shall be cleaned up using rubber or plastic dustpans and rubber squeegees or HEPA filtered vacuums. Metal shovels may also be used, except in the vicinity of plastic sheeting, critical barriers and isolation barriers, which could be perforated by these tools. To pick up excess water and gross wet debris, a wet-dry HEPA filtered shop vacuum dedicated to asbestos abatement may be used. This cleaning shall be done whenever there is sufficient asbestos waste material to fill a single leak-tight bag/container, or this cleaning shall be done at the end of each work shift whichever shall occur first. Visible debris shall be maintained adequately wet.

The Notice of Violation and Order to Comply for the above referenced violations was issued based upon the inspector's observations that, although PAL indicated that the abatement had been completed, there was asbestos roofing debris in the structure in several locations that had fallen through holes in the wooden roof deck. The inspector noticed that asbestos roofing

debris was located on the floor, on duct work, on large metal beams, wedged between electrical conduits, and on top of PAL's personal decontamination unit.

NASSAU COLISEUM PROJECT

Senior Industrial Hygienist Barbara Eisenberg testified that she became aware of an asbestos abatement project at the Nassau Coliseum sometime around June 16 to 19, 2012. (T. 51) The Bureau received an emergency Asbestos Project Notification for the Nassau Coliseum Project on Monday, June 18, 2012. (DOL Ex. 6, T. 58) The Notification listed the start date for the project as June 16, 2012. (DOL Ex. 6, T. 59) Ms. Eisenberg testified that PAL attempted to obtain emergency notification approval by contacting the Notification Unit after normal business hours on Friday, June 15, 2012. (PAL Exs. 2, 3, T. 60)

Ms. Eisenberg testified that she inspected the project site on Tuesday, June 19. (DOL Ex. 6, T. 60-61) Ms. Eisenberg testified that she was not familiar with this specific project before June 18, but she had inspected the Nassau Coliseum property on two prior occasions in response to employee complaints about asbestos problems. (T. 61) During these two prior inspections, Ms. Eisenberg found that the electrical shop, plumbing shop, and painters' shop were contaminated with pipe insulation that had fallen to the floor. (T. 96) These shops were in areas that did not have to be accessed by the building employees. Ms. Eisenberg testified that these areas could have been cordoned off and isolated during abatement. (T. 104) Ms. Eisenberg further testified that, based upon her observations during these two prior inspections, the level of the loading dock was not contaminated to any degree that required an emergency abatement. (T. 105)

Ms. Eisenberg testified that the Notification of Asbestos Project filed by PAL was designated by PAL as an emergency notification. (DOL Ex. 6; T. 58) Under Code Rule 56, in the case of an emergency notification, the contractor is required to contact the notification unit by phone to ask for approval for an emergency notification. (T. 59) The contractor states their reasons for proceeding as an emergency and the notification unit either accepts or rejects that reason. (T. 59) Ms. Eisenberg testified that pursuant to the Code Rule, the contractor has to proceed according to all of the regulations contained in Code Rule 56 in the event a response to the request to proceed as an emergency is not received or is rejected. (T. 59-60, 64, 67, 68-69)

Ms. Eisenberg testified that she inspected the project on June 19, 2012 and found that the project was complete. (DOL Ex. 7; T. 63) She spoke with the Assistant General Manager of the Coliseum who told her that there had been an emergency project that was done by PAL over the weekend that was completed early Monday morning. (DOL Ex. 7; T. 63) Her investigation indicated that the clean-up project that was done as an emergency was a large project involving the entire loading dock area she estimated to be thousands of square feet. (T. 63) Ms. Eisenberg testified that PAL did not perform the abatement in accordance with the provisions of the Code Rule. (T. 65) Specifically, the air monitoring company's daily log indicated that the personal decontamination system was inside the work area. (DOL Ex. 8; T. 70-71); there was no negative air pressure equipment installed or in use during this cleanup (T. 72-73, 75); there were no final air monitoring results as PAL did not employ actual containment or negative air filtration (T. 74); and PAL did not employ a tent and negative air in connection with the cleanup of the pipe wrap in the area of the pipe mezzanine. (T. 75-76)

Mr. Domozick testified that the objective of the cleanup procedure that was implemented by PAL was to create, to the greatest extent possible, safe working conditions within the loading dock by cleaning up all contamination that potential workers would be exposed to. A secondary objective was to restore the loading dock to full operational capacity. (T. 107) In the context of cross-examination, Ms. Eisenberg testified that the type of asbestos present in the loading dock area was spray-on insulation on overhead beams and pipe insulation in the pipe mezzanine. (T. 78) Ms. Eisenberg testified that this type of asbestos is friable and it can present a hazard to people in the area and people disturbing it. (T. 78-79) Ms. Eisenberg admitted that the presence of a large quantity of asbestos contamination is an emergency. (T. 80) Ms. Eisenberg testified that the procedure to be followed in an emergency situation is to call the notification unit, inform them of the situation, and allow them to make their own judgment whether the project presents a true emergency or not. (T. 80)

PAL submitted an emergency Project Notification (DOL Ex. 6; T. 80) In addition, Mr. Domozick offered exhibits indicating that PAL submitted the emergency notification via email on Friday, June 15, 2012 at 7:59 PM. (PAL Ex. 2; T. 81, 82) and followed that with the service of a revised emergency notification on Saturday, June 16, 2012 at 11:53 AM. (PAL Ex. 3) This Saturday email indicated that PAL called in the emergency notification to the NYS DOL Asbestos Notification Unit. (T. 82) Mr. Domozick admitted that PAL did not receive approval

from the Notification Unit to proceed with the emergency clean-up as the Department does not have any procedures to address an emergency contamination situation that arises after hours or on weekends. (T. 108) Mr. Domozick testified that PAL made the decision to proceed with the work to eliminate the hazard. (T. 108)

Ms. Eisengerg testified that a project of this size requires that the abatement be done according to all provisions of Code Rule 56 unless the contractor applies for and receives a site specific variance. (T. 64) PAL neither complied with the provisions of the Code Rule nor received a site specific variance. (T. 64-65) Ms. Eisenberg specifically testified that the nature of the clean-up required PAL to wait until it could request a variance from the Department's Engineering Unit because this was not an emergency that required the immediate response which PAL took. (T. 85) Unless permission to proceed with the asbestos project using approved variance conditions is granted pursuant to section 56-11.2, all work must be performed in accordance with all applicable provisions of Code Rule 56. (T. 69)

The Department Inspector issued to PAL a Notice of Violation and Order to Comply, which contained four violations (DOL Ex. 10):

56-3.5 Emergency Asbestos Project Notification.

- (b) **Emergency Approval.** The Program Manager, Asbestos Control Bureau, or other duly authorized representative of the Commissioner, upon ascertaining all pertinent facts relating to the request, shall be empowered to either approve or deny the request for permission to proceed with an emergency or incidental disturbance asbestos project without the filing of prior notification. Unless permission to proceed with the asbestos project, using approved variance conditions, is granted pursuant to Section 56-11.2 (Emergency Projects), all work shall be performed in accordance with all applicable provisions of this Part.

56-7.5 Personal and Waste Decontamination System Enclosures

Personal Decontamination System Enclosure - Large Project.

- (c) **(1) Enclosure – General.** A personal decontamination system enclosure shall be provided outside the regulated abatement work area and attached to all locations where personnel shall enter or exit the regulated abatement work area. One personal decontamination enclosure system for each regulated abatement work area shall be required. This system may utilize adequate existing lighting sources separate from the decontamination system enclosure, or shall be supplied with a GFCI protected temporary lighting system. The personal decontamination system enclosure shall be sized to accommodate the number of workers and equipment required for the intended purpose. Such system may consist of existing attached rooms outside of the regulated abatement

work area, if the layout is appropriate, that can be plasticized and are accessible from the regulated abatement work area. When this situation does not exist, personal decontamination enclosure systems may be constructed of metal, wood or plastic supports covered with fire-retardant plastic sheeting. A minimum of one (1) layer of six (6) mil fire-retardant plastic sheeting shall be installed on the ceiling, and walls of the enclosure system. At least two (2) layers of six (6) mil fire-retardant reinforced plastic sheeting shall be used for flooring protection of this area. This system must be kept clean, sanitary and climate controlled at all times in conformance with all federal, state and local government requirements. This system shall remain on-site, operational and be used until completion of Phase II C of the asbestos project.

56-7.8 Engineering Controls.

(a) Negative Air Pressure Equipment.

(1) Operation. The negative air pressure equipment shall operate continuously, twenty-four (24) hours a day, from startup of negative air pressure equipment, through the cleanup operations and satisfactory clearance air sampling results being obtained, or the asbestos project is complete.

56-11.2 Emergency Projects

(f) Corrective Actions for Incidental Disturbance of Asbestos Containing Materials:

(1) Upon discovery, the affected area shall be cordoned off with barrier tape at a distance of twenty-five (25) feet from the outer most limit of the disturbance. This shall be considered the regulated abatement work area for the cleanup of the disturbed materials. The regulated abatement work area shall be immediately cordoned off and adequate signage shall be posted as described in Subpart 56-7.4. After evaluation and emergency notification for the incidental disturbance as per Section 3.5, the following applies:

CONCLUSIONS OF LAW

The evidence adduced at the hearing established that PAL committed the following enumerated violations as alleged. Evidence took the form of photographs taken at the abatement site, investigators' testimony, and laboratory sample analyses reports. Specifically, regarding the JP Morgan Project, there is no evidence in the record to support a finding that PAL received final clearance before it discontinued the negative air filtration. In the Nassau Coliseum Project the record supports a finding that PAL did not comply with the requirements of Code Rule 56 in this large asbestos abatement project for which it did not receive approval to proceed as an emergency project or a site specific variance. Based upon the sworn testimonial and

documentary evidence adduced at hearing, the record supports a finding that PAL committed violations of the Labor Law and/or the Code Rule as follows:

JP MORGAN PROJECT

PAL committed one violation related to its asbestos removal on this project.

12 NYCRR § 56-7.8.A.1 (Engineering Controls – Negative Air Pressure Equipment – Operation)

4611 AUSTIN BOULEVARD PROJECT

PAL committed two violations related to its asbestos removal on this project.

12 NYCRR § 56-11.6.B.4.i (Exterior Project Removal of Non-Friable ACM Roofing, Siding, Caulking, Glazing Compound, Transite, Tars, Sealers, Coatings, and Other NOB ACMs - Roofs)

12 NYCRR § 56-11.7.D.1.i (Exterior Project Removal of Non-Friable ACM Roofing, Siding, Caulking, Glazing Compound, Transite, Tars, Sealers, Coatings, and Other NOB ACMs – Clean-Up Procedures During Abatement)

NASSAU COLISEUM PROJECT

PAL committed four violations related to its asbestos removal on this project.

12 NYCRR § 56-3.5.B (Emergency Asbestos Project Notification – Emergency Approval)

12 NYCRR § 56-7.5.C.1 (Personal and Waste Decontamination System Enclosures – Enclosure-General)

12 NYCRR § 56-7.8.A.1 (Engineering Controls – Negative Air Pressure Equipment – Operation)

12 NYCRR § 56-11.2.F.1 (Emergency Projects – Corrective Actions for Incidental Disturbance of Asbestos Containing Materials)

Civil Penalty

Labor Law § 909 (1) (b) provides for the assessment of a civil penalty of not more than the greater of 25% of the monetary value of the contract upon which the violation was found to have occurred, or \$5,000.00 per violation. Any contractor who has previously been assessed a

civil penalty, shall be subject to a civil penalty of not more than the greater of 50% of the monetary value of the contract upon which the violation was found to have occurred, or \$25,000.00 per violation. In assessing the amount of the civil penalty, the Commissioner shall give due consideration to the size of the contractor's business, the good faith of the contractor, the gravity of the violation(s), and the history of previous violations. In summation the Department requested the assessment of civil penalties in the following amounts:

JP Morgan Project: \$2,500.00;

4611 Austin Boulevard Project: \$2,500.00 per violation, total assessment of \$5,000.00;

Nassau Coliseum Project: \$5,000.00 per violation, total assessment of \$20,000.00.

The parties agree that PAL is one of the largest asbestos contractors in New York. (T. 110, 114, 117) The parties further agree that, although PAL has had prior violations, it has not incurred many. (T. 110, 114) Mr. Domozick testified that over a twenty year period PAL has received violations from the Department on less than one percent of its projects. (T. 114-115) This estimate was not disputed by the Department. Relative to PAL's good faith, Ms. Eisenberg testified that PAL is a reputable company and, based upon her prior experience with PAL she was quite surprised by these violations. (T. 111) The attorney for the Department acknowledged that PAL is a reputable company that has exhibited good faith in their practices and in resolving issues in the past. (T. 117) Regarding the severity of the violations issued in these three projects, Ms. Eisenberg was only able to comment on the Nassau Coliseum project which she characterized as serious because there was no containment and no negative air filtration used in this friable asbestos project. (T. 111-113) The Department did not offer evidence of the severity of the violations in the other two projects.

Mr. Domozick testified that PAL tries to do its work in conformance with the requirements of the applicable provisions of the Labor Law and Code Rule 56 and these three projects are rare occasions. He disputed the violations in the J.P. Morgan project as the evidence indicates that clearance could have reasonably been received prior to the inspector arriving on site. (T.115) Mr. Domozick further argues that there is not sufficient evidence to indicate that the equipment was shut down. (T. 115)

Mr. Domozick admitted to the violations in the 4611 Austin Boulevard project as the workmanship was not acceptable to PAL. (T. 116) However, he argues that the seriousness of the violations falls in the middle of the spectrum. (T. 116)

Finally, regarding the Nassau Coliseum project, Mr. Domozick argues that the assessment of civil penalties depends on whether the project was a bona fide emergency and whether the Department's procedures allow for handling an emergency of that size and nature. (T. 116) Mr. Domozick offered his opinion that the project was a legitimate emergency project and that PAL conducted the work in an environmentally safe way that would have been consistent with a site specific variance had one been applied for and received. (T. 116)

It is clear from the record that PAL is a large, experienced asbestos contractor that has not received excessive violations in the past and has exhibited good faith and sound practices in its work and dealings with the Department. On the issue of the gravity of the violations under consideration in this case, the Department produced sufficient evidence to support a finding that the PAL committed a total of seven (7) violations of the Labor Law and Code Rule 56 resulting from three (3) asbestos abatement projects. These violations involve work practice violations committed by PAL's employees during asbestos abatement activities which could have potentially exposed the PAL's employees and/or the general public to harmful asbestos containing material. I find that the record supports a finding the violations are serious violations of the applicable sections of the Labor Law and Code Rule 56.

The Counsel for the Department requested in his closing argument that the Commissioner assess a civil penalty in the total amount of \$27,500.00. The Department did not offer any analysis to support this request. Under the circumstances of this case, including the admitted quality of the work performed by PAL and its good faith in these three projects, the civil penalty requested by the Department is excessive. I find the record supports an assessment of civil penalties in the total amount of \$9,000.00, as follows:

JP Morgan Project: \$1,000.00;

4611 Austin Boulevard Project: \$1,000.00 per violation, total assessment of \$2,000.00;

Nassau Coliseum Project: \$1,500.00 per violation, total assessment of \$6,000.00.

RECOMMENDATIONS

I RECOMMEND, that the Commissioner of Labor adopt the Findings of Fact and Conclusions of Law as the Commissioner's determination of the issues raised in this case, and based on those findings and conclusions, the Commissioner should:

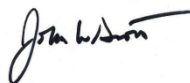
DETERMINE, that PAL has violated each and every section of the Labor Law and Code Rule alleged in the Notice of Hearing for the aforesaid for the Projects located at JP Morgan Bank, 365 Route 303, Orangeburg, NY (Asbestos Case No. 25883607), Nassau Coliseum, 1255 Hempstead Turnpike, Uniondale, NY (Asbestos Case No. 25918474), and 4611 Austin Boulevard, Island Park, NY (Asbestos Case No. 25887761); and

ORDER, that a total civil penalty of \$9,000.00 be imposed and assessed against PAL; and

ORDER, that PAL immediately remit payment to the Division Of Safety & Health, Asbestos Control Bureau, SOB Campus, Building 12, Room 157, Albany, NY 12240 of the total amount due (\$9,000.00) on the three Projects located at JP Morgan Bank, 365 Route 303, Orangeburg, NY (Asbestos Case No. 25883607), Nassau Coliseum, 1255 Hempstead Turnpike, Uniondale, NY (Asbestos Case No. 25918474), and 4611 Austin Boulevard, Island Park, NY (Asbestos Case No. 25887761), made payable to the Commissioner of Labor.

Dated: April , 2014
Albany, New York

Respectfully submitted,



John W. Scott, Hearing Officer