

STATE OF NEW YORK DEPARTMENT OF LABOR

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In the Matter of

**DEFAULT  
REPORT  
&  
RECOMMENDATION**

**SUNSHINE ENVIRONMENTAL, 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

Asbestos Case No.

AH-14-052

Project No.  
25880140

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To: Honorable Mario J. Musolino  
Acting Commissioner of Labor  
State of New York

Pursuant to a Notice of Hearing issued in this matter, a video hearing was held on February 27, 2015, between Albany and New York, New York. The purpose of the hearing was to provide the parties with 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 Sunshine Environmental, Inc. ("Respondent") complied with the requirements of Labor Law article 30 (§§ 900 *et seq.*) or 12 NYCRR part 56 when Respondent undertook an asbestos abatement project at Konica, 71 Charles Street, Glen Cove, New York.

## **APPEARANCES**

The Bureau was represented by Department Counsel, Pico Ben-Amotz (Jeffrey G. Shapiro, Senior Attorney, of Counsel). There were no appearances made by or on behalf of Respondent.

## **FINDINGS AND CONCLUSIONS**

The Department duly served copies of the Notice of Hearing on Respondent by certified mail (H.O. Ex 1). Respondent signed a Return Receipt evidencing its receipt of the document (*Id.*). The Notice of Hearing scheduled a February 27, 2015 hearing and required that the Respondent serve an Answer at least 14 days in advance of the scheduled hearing. Respondent failed to timely 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 testimony and credible evidence substantially supporting the Department's charges that Respondent violated the particular provisions of the Labor Law or the Code Rule that are hereinafter particularized.

For the foregoing reasons, the findings, conclusions and determinations of the Bureau should be sustained.

## **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 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:

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

12 NYCRR 56-9.1 (d) – Final Cleaning Procedures: The project monitor for Respondent failed to perform a thorough visual inspection to confirm that all asbestos debris was removed. The Bureau inspector found that asbestos containing floor tile debris remained

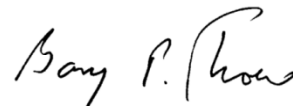
at the edges of the abated areas and that piles of asbestos containing tile were left on the floor in a room that had not been abated.

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

ORDER that Respondent 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 (\$1,000.00), made payable to the Commissioner of Labor.

Dated: March 3, 2015  
Albany, New York

Respectfully submitted,

A handwritten signature in black ink that reads "Gary P. Troue". The signature is written in a cursive style with a large, sweeping initial 'G'.

Gary P. Troue, Hearing Officer