



Department of Justice



ENVIRONMENTAL PROTECTION AGENCY

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WASHINGTON, D.C.— The U.S. Justice Department, the U.S. Environmental Protection Agency, the U.S. Small Business Administration and the U.S. Attorney for the Eastern District of Virginia today announced that two Virginia companies and two individuals pleaded guilty to buying false training certificates for their employees working in the asbestos and lead abatement and hazardous waste industries. The companies and individuals fraudulently obtained 8(a) set-aside contracts for minority-owned companies by submitting false statements to the Small Business Administration (SBA).

These guilty pleas are the result of a new initiative by the Environmental Crimes Section of the Department of Justice to identify and single out for prosecution the nation's most egregious workplace safety violators. The goal of the new initiative is to improve workplace safety, simply by applying existing laws to an arena that historically has suffered from weak enforcement options and reluctance to pursue those options. Environmental crimes, such as these, place workers in jeopardy of serious harm or death. Under the new initiative, employers who ignore environmental laws and place their workers at risk can expect to be prosecuted to the fullest extent of the law.

“This should send a strong signal to companies that intentionally and persistently violate our environmental and workplace standards that this behavior will not be tolerated,” stated Kelly Johnson Acting Assistant Attorney General for the Justice Departments Environment and Natural Resources Division.

ACS Environmental, Inc., located in Norfolk, and Air Power Enterprises, Inc., located in Portsmouth, worked in the asbestos and lead abatement and hazardous waste removal industries as abatement and removal contractors. From 1999 through 2004, Air Power received \$37 million worth of federal set-aside contracts under the SBA’s 8(a) program for minority owned businesses. ACS and Air Power admitted to conspiring to make false statements in connection with the certificates and to submitting false statements to the SBA regarding the ownership of Air Power in order to participate in the agency’s 8(a) set-aside program which enabled them to receive federal contracts as a minority-owned firm. James Schaubach, the president of ACS and vice president of Air Power, and Nicanor Lotuaco, the president of Air Power, admitted to making false statements in connection with the false certificates and the SBA’s 8(a) program.

ACS and Air Power admitted to buying these false certificates from F&M Environmental Technologies, Inc. a Virginia company, which pleaded guilty in February 2001 to selling hundreds of such false training certificates in Virginia, Maryland, and the District of Columbia.

Schaubach and Lotuaco obtained many of the asbestos, lead, and hazardous waste jobs on which the employees with false certificates worked through the SBA's 8(a) program by misleading the SBA into believing that Air Power was owned and controlled by a minority, when in fact Schaubach, a non-minority, controlled the company and directed that environmental contracts be sub-contracted to ACS.

Under federal and state law, individuals who intend to work on asbestos and lead abatement projects are required to undergo an extensive training course instructing them how to properly and safely remove asbestos, lead and hazardous waste without contaminating either themselves, co-workers, or members of the public. ACS and Air Power falsely certified that the workers had taken the required courses, passed the exams and were otherwise entitled to work on such projects. In fact, ACS and Air Power simply paid F&M Environmental Technologies, Inc. to fax, mail or otherwise deliver the certificates for workers supposedly taking the course.

Asbestos has been designated by the U.S. Environmental Protection Agency (EPA) and Congress in the Clean Air Act as a hazardous air pollutant. It causes a wide range of illnesses, including various forms of cancer and asbestosis, a usually fatal lung disease. The EPA has determined that there is no safe level of exposure to asbestos.

Schaubach and Lotuaco, purchased false asbestos, lead, and hazardous waste training certificates for ACS and Air Power employees and then used these certificates to obtain contracts to conduct asbestos, lead, and hazardous waste abatement at schools, hospitals, and other public and governmental facilities using employees with false certificates. These employees did not have the proper training to conduct the abatement, although the falsified certificates were presented to state and federal agencies as proof of appropriate training in asbestos, lead, and hazardous waste removal.

Sentencing for all four defendants is scheduled for October 12, 2005. Schaubach and Lotuaco face a maximum penalty of 5 years imprisonment. Schaubach and Lotuaco have each agreed to pay a \$1,000,000 fine. Each of the companies have agreed to pay a \$500,000 fine.

Investigation of this case was conducted by special agents of the Defense Criminal Investigative Services; the Federal Bureau of Investigation; the Criminal Investigative Division of the U.S. EPA; the Small Business Administration; Office of Inspector General; NASA Office of Inspector General; Army Criminal Investigations Division; Defense Contract Audit Office; and the Virginia Department of Professional and Occupational Regulation.

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