



Department of Justice

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VIRGINIA EXECUTIVE & COMPANIES RECEIVE LARGE JAIL TERM AND SUBSTANTIAL FINES FOR ENVIRONMENTAL CRIMES

WASHINGTON, D.C. – A Virginia executive and two companies, ACS Environmental, Inc. (ACS) and Air Power Enterprises, Inc. (Air Power), were sentenced late yesterday to substantial jail terms and fines for conspiracy to defraud the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA) and the Small Business Administration (SBA), the Justice Department announced today.

James Schaubach, president of ACS and vice president of Air Power, was sentenced to 21 months in prison, to be followed by 3 years of supervised release, and fined \$1.5 million. Both Air Power and ACS were sentenced to 5 years probation and Air Power was also fined \$500,000. Nicanor Lotuaco, president of Air Power, was sentenced on Jan. 26, 2006 to five months in jail, followed by five months home detention and three years supervised release, and fined \$1 million.

“By falsely certifying that workers had the appropriate credentials to work on asbestos and lead abatement projects, the defendants endangered the health and safety of their employees and the public,” said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department’s Environment and Natural Resources Division. “Today’s sentence sends a strong message that the Department will aggressively prosecute companies that intentionally and persistently violate our environmental laws and workplace standards.”

“These contractors defrauded the government in order to get away with performing asbestos abatement work without the proper training qualifications,” said Granta Y. Nakayama, EPA’s Assistant Administrator for Enforcement and Compliance Assurance. “These sentences intend to send a clear message: we will pursue contractors who knowingly disregard environmental laws and jeopardize the health and welfare of workers and the public.”

All defendants pleaded guilty on June 28, 2005 to buying false training certificates for their employees working in the asbestos, lead abatement, and hazardous waste industries and fraudulently obtaining 8(a) set-aside contracts for minority-owned companies by submitting false statements to the Small Business Administration (SBA).

ACS, located in Chesapeake, VA, and Air Power, located in Portsmouth, VA 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 in federal contracts, many of which were with the Department of Defense, 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. Schaubach and 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 take 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, these companies simply paid F&M Environmental Technologies, Inc. to deliver the certificates for workers supposedly taking the course.

Schaubach and Lotuaco purchased these false certificates for ACS and Air Power employees and then used them to obtain contracts to conduct asbestos, lead, and hazardous waste abatement at schools, hospitals, and other public and governmental facilities. 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.

Asbestos has been designated by the 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.

The guilty pleas are the result of a joint effort by the Environmental Crimes Section and OSHA to identify and prosecute the nation's most egregious environmental and workplace safety violators.

This case was investigated by special agents of the Defense Criminal Investigative Services; the Federal Bureau of Investigation; the Criminal Investigative Division of the U.S. EPA; Office of Inspector General, Small Business Administration; 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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