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WASHINGTON – After a two day hearing in federal court in Rochester, U.S. District Court Judge Charles J. Siragusa sentenced Keith Gordon-Smith, 54, of Rochester, N.Y., to six years in prison late yesterday for knowingly violating the Clean Air Act and making false statements to a federal inspector. Gordon-Smith was also sentenced to serve a three year term of supervised release to follow his prison term and was ordered to pay a $1,100 special assessment. Gordon Smith's now defunct company was sentenced to pay a special assessment of $44,000. No level of exposure to asbestos is safe, so removal by untrained workers, performed without the necessary safeguards, threatens the health of those workers and the public.

"Ensuring Clean Air Act work practice standards for asbestos are followed when renovating or razing a building is critical to protecting workers and the public," said Cynthia Giles, assistant administrator for EPA's Office of Enforcement and Compliance Assurance. "This sentence shows that when employers fail to adhere to the requirements of the law to make a profit, the consequences are serious."

"The court's sentence properly punishes Gordon-Smith and his company for the egregious crimes that placed workers and their families at risk and for his complete disregard of the environmental laws that protect human health and the environment," said Ignacia S. Moreno, assistant attorney general for the Environment and Natural Resources Division of the Department of Justice. "The court's sentence should send a strong message to asbestos abatement contractors that they will be held accountable to the fullest extent of the law."

"The highly dangerous actions of Keith Gordon-Smith exposed both workers and the public to hazardous materials," said U.S. Attorney William J. Hochul, Jr. "Those in the asbestos removal industry are well compensated for their work, but in return are under legal and moral obligation to perform the job correctly. When a company cuts corners - or worse - intentionally exposes workers and the public to harm - our Office will act quickly and decisively."

Gordon-Smith hired a number of workers who had no training in asbestos removal and did not know they were being exposed to the asbestos while removing the copper pipes. Evidence at sentencing showed that when workers questioned Gordon-Smith, he lied and told them the areas did not contain asbestos. Gordon-Smith ultimately lied to an Occupational Safety and Health Administration (OSHA) inspector who came to the site in September and October 2007 to investigate allegations of illegal asbestos removal.

When the workers removed the pipes and scrap metal, they were repeatedly exposed to asbestos, and described that the asbestos fell on them “like snow.” The workers were not provided with any protective clothing or respirators while tearing out the asbestos-contaminated pipes and wore their asbestos-contaminated clothing back to their homes and families after work.

The jury also convicted Gordon-Smith and his company, Gordon-Smith Contracting, Inc. (GSCI), of causing GSCI workers to illegally remove and dispose of asbestos during the actual asbestos abatement at the west wing of the Genesee Hospital complex, from May 2007 until February 2009. The asbestos was allowed to flow from upper floors through drains and holes in containment. Large amounts of asbestos were left hidden in the west wing. Gordon-Smith was fired from the site in February 2009. The building was subsequently cleaned of asbestos before it was demolished in September 2010.

Gordon-Smith and his company were also convicted by the jury of six counts of failing to provide required notices to EPA prior to commencing asbestos abatement projects at six different sites in the Rochester area, between 2005 and June 2008. The sites included the west wing of the Genesee Hospital complex, Cobbles Elementary School in Penfield, Bloomfield Elementary School in East Bloomfield, the Al Sigl Center in Rochester, and the Hillside Children’s Center in Varick.

Asbestos work practice standards under the Clean Air Act require that all asbestos must be removed from any structure where it may be disturbed, such as the west wing of the Genesee Hospital complex, where Gordon-Smith ordered the workers to remove pipes contaminated with asbestos. While asbestos is removed during abatement, it must be wetted and kept adequately wet at all times and disposed of as soon as practical at an EPA-approved site.

The case was prosecuted by the U.S. Attorney’s Office for the Western District of New York with the Environmental Crimes Section of the Natural Resources Division of the Department of Justice. The case was investigated by the U.S. EPA Criminal Investigation Division and the U.S. Department of Labor Office of the Inspector General. Criminal investigators were assisted by OSHA and the New York Department of Labor Asbestos Control Bureau.

More information on asbestos: http://www.epa.gov/asbestos/ [1]

More information about EPA’s criminal enforcement program: http://www.epa.gov/compliance/criminal/index.html [2]

Report an environmental violation: http://www.epa.gov/tips/ [3]

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