

Exhibit 3

**CLEAN AIR ACT (NON-ASBESTOS) CASES WITH SENTENCES OF
IMPRISONMENT**

United States v. Jassim Juburi, 12-CR-00084 (W.D.N.C.)

On August 9, 2013, Jassim Juburi was sentenced to serve **18 months' incarceration** followed by three years' supervised release, for conducting more than 500 false vehicle emission inspections. Juburi also will pay a \$15,000 fine, which, if paid in full, may reduce the term of supervised release to two years.

The defendant worked at Central Auto Inspection & Repair (Central Auto) as a mechanic and a vehicle emissions inspector licensed by the state of North Carolina. As a state-licensed emissions inspector, he conducted onboard diagnostic inspections to test vehicle emissions. From August 2010 to March 2012, Juburi conducted 534 illegal vehicle emissions inspections, using surrogate vehicles to falsely pass those that would have otherwise failed the test. This practice is known in the industry as "clean scanning." Juburi charged as much as \$100 to clean scan a vehicle. He previously pleaded guilty to a Clean Air Act conspiracy violation (18 U.S.C. § 371).

United States v. Alexander Morrissette et al., 12-CR-00037 (M.D. Ga.)

On April 17, 2013, Alexander Morrissette was sentenced to **serve 78 months' incarceration** followed by three years' supervised release. Morrissette previously pleaded guilty to Clean Air Act violations (42 U.S.C. §§ 7671(g)(c), 7413(c)(1)) for releasing or venting ozone depleting substances into the atmosphere. He was further ordered to pay \$178,846 in restitution to repair several commercial air conditioners that had been illegally harvested for scrap metal. Co-defendant Randall Wimpey was previously sentenced to serve **15 months' incarceration** followed by two years supervised release.

The two were involved in the theft of air conditioning units from several buildings in the Monroe, Georgia, area in 2011 and 2012. Investigators determined that the two had sold metals that they had removed from the units, with Morrissette receiving \$900 from a metal recycling shop for 865 pounds of copper and aluminum. In the process of dismantling the air conditioners, the defendants vented the refrigerant gas.

United States v. Nighi Cong Tran et al., 11-CR-000270 (N.D. Tex.)

On December 5, 2012, Nighi Cong Tran was **sentenced to serve 15 months' incarceration** followed by one year of supervised release, after previously pleading guilty to a Clean Air Act conspiracy violation (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(2)(A)). Tran was one of six defendants prosecuted in connection with this vehicle emissions testing scheme.

The defendants were emissions inspector technicians who falsified Texas state emissions tests at two inspections stations. They substituted vehicles that would pass the test in place of those that had previously failed. They then generated fraudulent emissions certificates and transmitted the results to the Texas Department of Public Safety.

Huy Ngoc Nguyen was sentenced to complete a one-year term of probation; Dahn Cong Tran was sentenced to serve eight months' home confinement followed by 12 months' probation; Bich Dogn Ngo was sentenced to complete a one-year term of probation; Ngan Tien Tran was **sentenced to serve 12 months and one day of incarceration** followed by one year of supervised release. Nghiem Van Tran, who pleaded guilty to conspiracy to violate the CAA, is scheduled to be sentenced on March 8, 2013. The other four defendants all pleaded guilty to making a Clean Air Act false statement (42 U.S.C § 7413(c)(2)(A)).

United States v. Ronald E. Kinard et al., 11-CR-00240-00241, 00340, 00342 (W.D. N.C.)

On November 26, 2012, Ronald E. Kinard was sentenced to serve **six months' incarceration** followed by six months' home confinement and two years of supervised release. Kinard also will pay a \$10,000 fine and perform 50 hours of community service. Co-conspirator Jack B. Haney was sentenced earlier this month to **serve six months' incarceration** and six months' home detention, followed by one year of supervised release. The two previously pleaded guilty to conspiracy to violate the Clean Air Act for conducting false vehicle emission inspections (18 U.S.C. § 371; 42 U.S.C. § 7413 (c)(2)(A)). Haney also pleaded guilty to a false statement violation (18 U.S.C. § 1001). The two are prohibited from conducting any future vehicle inspections.

Kinard is the owner and operator of Autoworks, where Haney was employed. Both were licensed by the state of North Carolina to conduct vehicle emissions inspections. From January 2010 through August 2011, Kinard conducted more than 1,180 false vehicle inspections by connecting a substitute vehicle to the onboard diagnostics system, an activity referred to as "clean scanning." Haney was responsible for conducting more than 100 false inspections. In exchange, they charged as much as \$100 per vehicle.

To date, nine individuals have been prosecuted as a result of this investigation into the falsification of vehicle emissions testing in this district.

***United States v. Atlantic States et al., 03-CR-852 (D.N.J.)**

On April 24, 2009, Atlantic States was sentenced to pay an **\$8 million fine**, and will complete a four-year term of probation, during which it will be subject to oversight by a court-appointed monitor. The monitor will report twice annually to the court on the company's lawful operation and adherence to environmental and worker health and safety regulations. The court further required as a condition of probation that specific top managers at the Phillipsburg plant and at McWane headquarters in Birmingham, Alabama, including the chairman and president, will read the entire transcripts from the sentencings this week of the four managers who were convicted along with the company.

During the week of April 20, 2009, John Prisque, Scott Faubert, Craig Davidson, and Jeffrey Maury were each sentenced to serve lengthy terms of incarceration for their managerial roles in environmental and workplace violations at a pipe foundry, which led to the death of a worker who had used a broken forklift. **Plant manager John Prisque was sentenced to serve 70 months; Jeffrey Maury, a former maintenance supervisor was sentenced to serve 30 months; former human resources manager Scott Faubert was sentenced to serve 41**

months; and superintendent Craig Davidson was sentenced to serve six months incarceration. The defendants were all found guilty by a jury of conspiracy to violate the CWA and CAA; to make false statements and to obstruct EPA and OSHA; and to defeat the lawful purpose of OSHA and EPA. These five defendants also were variously found guilty of substantive CWA, CAA, CERCLA, false statement, and obstruction violations charged in a 34-count superseding indictment.

Atlantic States, a division of McWane, Inc., manufactures iron pipes, which involves melting scrap metal in a cupola (a multi-story furnace), that reaches temperatures approaching 3,000 degrees Fahrenheit. Evidence at trial proved a corporate philosophy and management practice that led to an extraordinary history of environmental violations, workplace injuries and fatalities, and ultimately obstruction of justice. In addition to the fatality involving a forklift, a worker lost three fingers in a cement mixer, and another worker lost an eye when a saw blade broke.

Evidence further showed that the defendants routinely violated the facility's CWA permits by discharging petroleum-contaminated water and paint into storm drains that led to the Delaware River; repeatedly violated the facility's CAA permits by, among other things, burning tires and excessive amounts of hazardous paint waste in the cupola; systematically altered accident scenes; and routinely lied to federal, state, and local officials who were investigating environmental and worker safety violations.

United States v. John Littlehale et al., 03-CR-001-01 (S.D. Ind.)

On January 13, 2004, John Littlehale, former vice president of one of the largest label manufacturers in the nation, was sentenced to serve **18 months' incarceration** plus complete 50 hours of community service. He was further ordered to pay a \$4,000 fine as the result of making a false statement to the Indiana Department of Environmental Management ("IDEM"). This sentence is the longest term of incarceration for an environmental violation in the Southern District of Indiana. Littlehale pled guilty in September 2003 to making a false statement in violation of the Clean Air Act, which is also believed to be the first criminal resolution under Title V of the Act. Co-defendant Roger Taylor, who pled guilty to misprision of a felony in June 2003, was sentenced to serve six months of home detention as part of a five-year term of probation and was also ordered to perform 500 hours of community service.

In April, 1997, the Scottsburg Division of the Multi-Color Corporation, began construction on a new press. Littlehale admitted that he falsely represented to the IDEM that this press was not operating and that, once it was in operation, the required air pollution control devices would be installed. Littlehale directed subordinates, however, to begin operating the press six months prior to his making this statement to regulatory officials and was further aware that the press was operating without any air pollution control. The result was the uncontrolled emissions of over 100 tons of VOCs, toluene, and carbon tetrachloride into the air.

The Multi-Color Corporation was not charged. In January 1998, as the company was going through a management change, it uncovered and immediately disclosed these violations to the IDEM pursuant to a Voluntary Disclosure Program. In November 1998, Multi-Color entered into a civil resolution of the case with the IDEM. In the civil matter, the company agreed to pay a fine, perform supplemental environmental projects and cooperate with the government's continuing investigation.

United States v. M&S Petroleum, Inc. et al., 98-CR-15 (S.D. Miss.)

On October 25, 1999, M&S Petroleum, Inc. ("M&S"), and three other defendants were sentenced in connection with the improper operation of a crude oil refinery. M&S was sentenced to pay a \$25,000 fine and serve a three-year term of probation. Plant manger Donald Mullins was sentenced to serve three years' probation and ordered to complete 150 hours of community service. Manager John Cooke was sentenced to pay a \$5,000 fine and **serve 29 months' incarceration** followed by three years' supervised release. Plant owner Barrett Refining Corporation ("BRC") was sentenced to pay \$25,000 in restitution to the United States, serve five years' probation with the special conditions that it is to comply with the administrative order issued by the Mississippi Department of Environmental Quality ("MDEQ") and remediate the site. BRC pled guilty at the time of sentencing to an information charging one CWA violation for discharging pollutants without a permit into the Mississippi River.

In August 1998, Mullins, Jerry LaBarba, Cooke and M&S Petroleum were indicted for conspiracy to violate the CWA, RCRA, and CAA. The charges also included two substantive counts of CWA, four RCRA storage counts, two CAA NESHAPs counts and eight false statement charges. Mullins subsequently pled guilty to one false statement charge. LaBarba entered a plea on behalf of M&S to the conspiracy and charges were dismissed against LaBarba.

A superseding indictment was filed in February 1999 and the CWA charges were dropped against Cooke who remained charged with conspiracy, RCRA, CAA and three false statement violations. On July 8, 1999, after a seven-day trial, Cooke was found guilty on all counts. This was the first prosecution under 42 U.S.C. 7413 (c)(2)(B), penalizing the failure to notify regulators prior to commencing operation of a source subject to emission standards, and 42 U.S.C. 7413 (c)(1), which penalizes the failure to perform monitoring of equipment in benzene service at a source subject to emission standards.

Between May 1995 and April 1996, M&S operated a refinery owned by BRC located in Vicksburg, Mississippi. Mullins was the *de facto* plant manager who took his orders from Cooke. The refinery was originally equipped to refine crude oil into jet fuel and other products. When M&S arrived, however, it immediately purchased feed stocks with high levels of **benzene**. Various operational problems and regulatory violations followed. When the MDEQ became aware of the RCRA, CWA and CAA violations, Mullins and Cooke made several false statements at different times to MDEQ personnel which enabled them to continue operating the refinery.

Violations included improper tank maintenance, worker exposure to benzene vapors and benzene-tainted liquids, and the discharge of untreated waste water containing high levels of toluene, benzene, xylene, oil and grease into the Mississippi River.

When M&S left the refinery in April 1996, it abandoned at least four tanks containing several thousand gallons of hazardous wastes.

CLEAN AIR ACT (ASBESTOS) CASES WITH SENTENCES OF IMPRISONMENT

United States v. Anthony M. Davis (aka Mike Davis, Jr.), 12-CR-00235 (W.D. Mich.)

On June 20, 2013, Anthony M. Davis (aka Mike Davis, Jr.) was sentenced to serve **12 months' incarceration** followed by two years' supervised release. He also will pay \$168,023 in restitution to the U.S. Environmental Protection Agency for clean-up costs. Davis previously pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413 (c)(1)) stemming from the illegal removal of asbestos from a paper mill.

Davis was the owner of Cogswell Property LLC, which purchased the closed paper mill in 2006. Despite knowing that there was a substantial amount of asbestos-containing insulation, Davis hired inexperienced laborers to assist him in removing the insulation without following many of the work practice standards for the proper handling of asbestos.

***United States v. Clarence Cole et al., 11-CR-00132 (E. D. Pa.)**

On June 3, 2013, Clarence Cole was sentenced to serve **24 months' incarceration** followed by three years' supervised release. Restitution will be ordered at a later date. Cole previously pleaded guilty to conspiracy and to six Clean Air Act violations (18 U.S.C. § 371; 42 U.S.C. § 7413 (c)(1)) for his role in an illegal asbestos abatement project. Co-defendant Gene Smith was convicted by a jury of the same violations and is not yet scheduled for sentencing.

In September 2007, Smith purchased a large warehouse, which held a boiler and asbestos-insulated pipes running throughout the building. After being told the cost of properly removing the asbestos-containing material, Smith hired Cole instead, who in turn hired a group of day laborers to rip out the material. The workers were not told they were removing asbestos and were only given paper masks for their protection. The dry asbestos was left for regular trash pickup on a curb in front of a group of rowhouses. The defendants continued to direct workers during the abatement even after authorities told them to cease.

United States v. Franklin A. Bieri, 11-CR-30174 (S.D. Ill.)

On May 9, 2013, salvage business owner Franklin Bieri was sentenced to serve **five months' incarceration** followed by three months' home detention as a condition of three years' supervised release. Bieri also will pay a \$3,000 fine for violating the Clean Air Act (42 U.S.C. §7413(c)(1)).

Bieri was the owner of a demolition and salvage business known as Mississippi River Construction Company. At some point prior to March, 2010, Bieri arranged to purchase the former Emerson Electric facility in Washington Park, Illinois. The facility consisted of seven buildings located on approximately seven acres. The defendant intended to salvage metal from pipes, boilers, wires, and other components in buildings at the site, after which the buildings were to be demolished.

Bieri admitted that he was aware of the presence of asbestos-containing material in the buildings. Nevertheless, he hired and directed untrained workers to remove the material without

using proper removal and disposal procedures, such as wetting the asbestos, properly labeling the bagged material, or ensuring its proper disposal. Bieri further failed to provide written notification to the Illinois Environmental Protection Agency at least ten working days prior to beginning the asbestos stripping and removal work.

***United States v. Michael Pinski et al., 10-CR-20042 (C.D. Ill.)**

On January 14, 2013, Michael Pinski was sentenced to **serve six months' incarceration and six months' home confinement**, followed by two years of supervised release. A fine was not assessed. Pinski is the final defendant to be sentenced in this case involving the illegal removal of asbestos.

In August 2009, Pinski hired Duane O'Malley, owner and operator of Origin Fire Protection, to remove asbestos-containing insulation from pipes in a five-story building. Neither O'Malley nor his company was trained to perform asbestos removal work. O'Malley agreed to remove the asbestos insulation for a substantially reduced cost, and arranged for James Mikrut to recruit a crew to do the work in August 2009. The asbestos insulation was placed in approximately 100 unlabeled plastic garbage bags that later were emptied onto an open field in a residential area resulting in asbestos contamination of the soil.

O'Malley was convicted by a jury on all five Clean Air Act counts (42 U.S.C. § 7413(c)(1)); Mikrut pleaded guilty to five CAA violations and Pinski pleaded guilty to one CAA violation. **O'Malley was sentenced to serve 120 months' incarceration**, followed by a three-year term of supervised release. O'Malley also was ordered to pay a \$15,000 fine and was held jointly and severally liable for the \$47,085 restitution to EPA for cleanup costs. O'Malley's sentencing was enhanced due to a prior conviction for a "Solicitation of Murder for Hire" charge. **Mikrut was sentenced to serve one year and a day of incarceration** followed by a one-year term of supervised release. During the supervised release, he will be under home detention. He was further jointly and severally liable for the restitution to the EPA for cleanup costs.

***United States v. Watkins Street Project, LLC, et al., 09-CR-00144 (E.D. Tenn.)**

On October 1, 2012, three individuals and a salvage company were sentenced. Donald Fillers will serve **48 months' incarceration** followed by three years' supervised release, and will pay a \$20,000 fine; James Mathis will serve **18 months' incarceration** followed by three years' supervised release; David Wood will serve **20 months' incarceration** followed by three years' supervised release; and Watkins Street Project was ordered to pay a \$30,000 fine. In addition, the defendants were held jointly and severally liable for \$27,899 in restitution to the U.S. Environmental Protection Agency, the Chattanooga Department of Public Works, and the Chattanooga Hamilton County Air Pollution Control Board for costs associated with the emergency response and clean-up of the former Standard Coosa Thatcher plant in Chattanooga.

The defendants were previously convicted by a jury of charges related to the illegal demolition of this factory that left contaminated debris scattered into piles and exposed to the elements. They were all found guilty of conspiracy, Clean Air Act, obstruction, and false statement violations. Mathis was found guilty of conspiracy and three other substantive CAA

counts, and acquitted on one CAA charge (18 U.S.C. §§ 371, 1001, 1519; 42 U.S.C. § 7413(c)). All charges were dismissed against Mathis Companies, Inc.

The evidence proved that, from August 2004 to September 2005, the plant was illegally demolished while still containing large amounts of asbestos. Asbestos that had been removed was left in open piles on the property. During the demolition, visible emissions engulfed surrounding businesses, residences, and a day-care center. The defendants attempted to conceal their illegal activities by falsifying documents, lying to federal authorities, and by using low-paid day laborers to remove the material.

United States v. Sun H. Park et al., 09-CR-00020, 00543, and 3:10-CR-00253, (N.D.N.Y., D.N.J.)

On April 27, 2012, Sun Park was sentenced to serve **14 months' incarceration** followed by two years' supervised release. Park also will pay more than \$5 million in restitution. The defendant previously pleaded guilty to mail fraud and to preparing false income tax returns in the Northern District of New York (18 U.S.C. § 1341, 26 U.S.C. § 7206(2)), and to conspiracy to commit bank fraud in the District of New Jersey (18 U.S.C. § 1349).

Park provided assistance to individuals and companies within the New York City Korean community (which supplied temporary asbestos abatement workers to other abatement companies) in falsifying insurance applications and in defrauding insurance carriers by understating the number of workers involved, and by deleting all mention of involvement with asbestos. As a result, insurance carriers were defrauded out of \$1.6 million in premiums. She also prepared false tax returns for numerous individuals over a period of years. In the District of New Jersey, Park used her accounting skills to aid others in obtaining millions of dollars in home equity and business lines of credit, depriving lenders of security for the credit.

Chong Mun Chae (aka Charlie Brown) was previously prosecuted in Syracuse for his company's involvement in asbestos projects without having obtained the required permits. Park assisted Chae in obtaining fraudulent insurance policies needed for workers to participate in asbestos related work. Chae was sentenced to serve 46 months' incarceration, followed by three years' supervised release, and was ordered to pay more than \$1.6 million in restitution.

The defendant provided substantial assistance to the government that was instrumental to the success of a number of other prosecutions.

United States v. Everett Blatche et al., 06-CR-00474, 5:08-CR-00171 (N.D.N.Y.)

On April 4, 2012, Everett Blatche was **sentenced to serve seven days' incarceration followed by three years of supervised release.** A fine was not assessed. Blatche previously pleaded guilty to conspiracy to violate the Clean Water Act, Clean Air Act, and CERCLA (18 U.S.C § 371).

Blatche was a supervisor for Aapex Environmental Services, Inc., (Aapex), an asbestos removal company. From June through November 2006, the defendant supervised numerous individuals who removed approximately 220,000 square feet of fire-proofing asbestos material from a large building. The material was then illegally dumped onto the ground and into nearby storm drains leading to the Erie Canal system. Aapex previously pleaded guilty to conspiracy

and to a mail fraud violation (18 U.S.C §§ 371, 1341). It was sentenced to pay a \$63,000 fine, \$75,000 in restitution, and will complete a two-year term of probation. Co-defendant John Leathley remains scheduled for sentencing on August 21, 2012.

United States v. Kenneth Horan et al., 11-CR-06171(W.D.N.Y.)

On February 15, 2012, Kenneth Horan was sentenced to **serve a year and a day of incarceration** followed by two years' supervised release. He also will pay a \$10,000 fine. Horan previously pleaded guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) for illegally removing and disposing of regulated asbestos-containing material (RACM).

In October 2009, Horan supervised a crew that removed more than 375 linear feet of boiler pipe wrapped in RACM, which was not properly wetted. Additionally, the individuals on the crew were not licensed asbestos abatement contractors.

United States v. Daniel Clements et al., 11-CR-20433 (E.D. Mich.)

On February 17, 2012, Brian Waite was sentenced to serve a year and a day of incarceration after pleading guilty to a Clean Air Act violation (42 U.S.C. § 7413(c)(1)) stemming from his involvement in an illegal asbestos removal project. Co-defendant Daniel Clements previously entered a similar plea and was sentenced on February 13th to pay a \$3,000 fine, and to a two-year term of probation that includes six months' home confinement. Between December 2010 and February 2011, the defendants failed to have workers wet regulated asbestos-containing materials (RACM) that were removed from a former Ford Motor Company plant in Utica, Michigan, during renovation.

According to an asbestos survey of the plant, the building contained more than 60,000 linear feet of RACM. During the removal, the defendants directed workers to tear out the RACM while it was dry and to place it into plastic bags without wetting it. To speed up the process they instructed workers to meet a daily goal of removing 1,000 feet of material. The workers sometimes kicked or threw the material to the ground, causing larger pieces to break apart.

2011

***United States v. Paul Mancuso et al., 08-CR-00548 and 00611 (N.D.N.Y.)**

On December 7, 2011, Paul and Steven Mancuso were resentenced, after the Second Circuit remanded in June 2011. Paul Mancuso **will serve 54 months' incarceration** (versus 78 months) followed by three years' supervised release, and he will pay a \$20,000 fine. Steven Mancuso was resentenced to serve **41 months' incarceration (versus 44 months)**, followed by three years' supervised release. The two brothers previously were convicted by a jury of conspiracy to defraud the United States, to violate the Clean Air Act, to violate CERCLA, and to commit mail fraud along with substantive CAA and CERCLA violations (18 U.S.C. § 371; 42 U.S.C. §§ 7412, 9603) for the illegal removal of asbestos from numerous locations throughout central and upstate New York. Their father, Lester Mancuso, was **sentenced to serve 36**

months in prison followed by three years' supervised release. Another brother, Ronald Mancuso was sentenced to complete a three-year term of probation.

Paul Mancuso previously was convicted of CAA violations related to illegal asbestos removal and disposal in 2003, and he was convicted in 2004 of insurance fraud also related to his asbestos business. As a result of those prior convictions, he was prohibited from either directly or indirectly engaging in any asbestos abatement activities or associating with anyone who was violating any laws. Evidence from the recent case proved that Paul Mancuso set up companies in the names of relatives and associates to hide his continued involvement with asbestos removal. He and his father thereafter engaged in numerous illegal asbestos abatement activities that left a variety of businesses and homes contaminated with asbestos. On multiple occasions Paul also dumped asbestos from his removal jobs on roadsides and in the woods.

In his capacity as an attorney, Steven Mancuso aided his family in its illegal asbestos enterprises by preparing false and fraudulent documents to make it appear that their activities were legitimate and that they were entitled to payment for their work.

***United States v. Certified Environmental Services, Inc., et al., 09-CR-00319 (N.D.N.Y.)**

On October 21, 2011, Certified Environmental Services, Inc. (CES), an asbestos air monitoring company and laboratory, along with managers Nicole Copeland and Elisa Dunn, and employee Sandy Allen, were sentenced for conspiring to violate the Clean Air Act, to commit mail fraud, and to defraud the United States. They also were convicted by a jury of substantive CAA violations and mail fraud, while CES and Dunn in addition, were convicted of making false statements to federal law enforcement (18 U.S.C. §§371, 1341, 1001; 42 U.S.C. §7413(c)(1)).

CES will pay a \$20,000 fine, pay \$117,000 in restitution, and complete a five-year term of probation. Copeland will pay \$23,000 in restitution and complete a **five-year term of probation with special conditions to include 12 consecutive weekends of incarceration** and the performance of 200 hours of community service. Dunn and Allen were sentenced to time served, followed by three years' supervised release. They each were ordered to pay \$5,000 in restitution and will perform 200 hours of community service. All defendants are prohibited from engaging in any asbestos-related air monitoring activities, with the restitution to be paid to fraud victims and for reimbursement of cleanup costs.

The convictions stem from a decade-long scheme in which asbestos was illegally removed and left behind in numerous buildings and homes in Syracuse and other upstate New York locations, while CES gave the abatement contractors false air results to use to convince building owners that the asbestos had been properly removed. Frank Onoff, who previously pleaded guilty to conspiracy to defraud the United States, to violate the CAA, to violate the Toxic Substances Control Act, and to commit mail fraud, was sentenced to time served, followed by three years' supervised release. He will pay \$5,000 in restitution, perform 200 hours of community service, and is prohibited from engaging in any asbestos-related air monitoring.

***United States v. Thorn, 659 F.3d 227 (2d Cir. 2011)**

Joseph Thorn was convicted in 2000 in the Northern District of New York of Clean Air Act violations for directing nearly 700 workers to perform 1,100 asbestos "rip and run" abatements over the course of ten years and for arranging with air monitors and laboratories to

falsify thousands of sample results. Thorn was further convicted of promotion money laundering related to his illegal business scheme. In multiple appeals and cross appeals of trial and sentencing issues (*see* 317 F.3d 107 (2d Cir. 2003) and 446 F.3d 378 (2d Cir. 2006)) the Second Circuit ruled favorably for the government on numerous issues, including the existence of a substantial likelihood of death or serious bodily injury, abuse of trust, and the existence of a promotion money laundering scheme that was within the heartland of such offenses.

Following the Supreme Court's fractured decision in *United States v. Santos*, 553 U.S. 507 (2008), Thorn filed a 28 U.S.C. § 2255 motion challenging his money laundering conviction and asking that his **12-year sentence** be substantially reduced. The district court granted the motion, dismissed the money laundering conviction, and reduced Thorn's sentence by one year. Both parties appealed. **In its third written decision in this case the Second Circuit reversed the district court and reinstated the prior sentence [The amended judgment, entered on October 4, 2006, sentenced Thorn to concurrent 60-month prison terms on the Clean Air Act counts and a concurrent 144-month term on the money laundering conspiracy].**

Accepting the government's argument, the Circuit ruled that it need not reach the question of whether *Santos* applied to this case; it held that Thorn procedurally defaulted by not timely raising the issue of whether he laundered proceeds versus gross profits. The Circuit further found no cause for the procedural default, or actual innocence of the money laundering crime.

***United States v. Keith Gordon-Smith et al., 08-CR-06019 (W.D.N.Y.)**

On September 21, 2011, Keith Gordon-Smith and his Rochester-based asbestos abatement company, Gordon-Smith Contracting, Inc., (GSCI) were sentenced, after previously being convicted by a jury on eight Clean Air Act violations and three false statement counts (42 U.S.C. §§ 7412, 7413(c)(1); 18 U.S.C. § 1001). Gordon-Smith will serve **six years' incarceration** followed by a three-year term of supervised release. The company is now defunct.

Evidence at trial proved that GSCI workers violated asbestos work practice standards at the Genesee Hospital complex, which was demolished in the summer of 2009. The first violations took place between January and May 2007, when Gordon-Smith ordered GSCI workers to tear out copper pipes, ceiling tiles, and scrap metal from the west wing, a six-story structure that contained over 70,000 square feet of asbestos. Gordon-Smith had a contract with the site owner that provided him with 50 percent of the salvage value of all copper pipe and scrap metal. When the workers removed the pipes and scrap metal, they were repeatedly exposed to asbestos, described to the jurors as falling on them "like snow." The workers were not wearing any protective clothing and often would wear their asbestos-contaminated clothing back to their homes and families. Large amounts of asbestos were left hidden in the west wing and were not properly disposed off-site.

Evidence further proved that Gordon-Smith and the company made false statements to an OSHA inspector who had received complaints from GSCI workers. The OSHA inspector visited the site three times in September and October 2007, and on each occasion Gordon-Smith lied and told the inspector that GSCI workers had not removed any copper pipes or other materials from the west wing.

Gordon-Smith and the company also were convicted of six counts of failing to provide required notice to EPA prior to commencing asbestos abatement projects at six different sites in the Rochester area between 2005 and June 2008, including several schools. Francis Rowe, a former project manager for GSCI, was acquitted by the jury of the single CAA count charged against him.

***United States v. Albania Deleon et al., 07-CR-10277 (D. Mass.)**

On September 14, 2011, Albania Deleon, the former owner of one of the country's largest asbestos abatement training school, was sentenced to **serve 87 months' incarceration**, followed by three years' supervised release, after fleeing the United States just prior to sentencing in 2010. Deleon also will pay \$1,200,939 in restitution to the Internal Revenue Service and \$369,015 to AIM Mutual Insurance Company.

Deleon, owner of the Environmental Compliance Training School (ECTS), was convicted by a jury in November 2008, following a three-week trial on charges that she sold asbestos-removal training certificates to hundreds of undocumented workers who had not taken the mandatory training course and then sent them out to perform asbestos removal work, for which she paid them without withholding taxes. Deleon was convicted on 22 counts, including conspiracy to make false statements, to encourage undocumented workers to reside in the United States, and to hire them; five false statement violations; 16 counts of procuring false payroll tax returns; and five counts of mail fraud (18 U.S.C. § 371; 18 U.S.C. § 1001; 26 U.S.C § 7206; 18 U.S.C. § 1341.)

ECTS was the largest certified asbestos training school in Massachusetts. Between 2001 and 2006, Deleon routinely issued asbestos certificates to people who did not attend required training courses or pass required tests. Many of those who received fraudulent certificates were illegal immigrants who then worked for a temporary service company, Methuen Staffing, also owned by Deleon, at demolition and construction sites overseeing asbestos removal. She sent these employees to job sites throughout Massachusetts, as well as to other states, including New Hampshire, Maine, and Connecticut.

The tax violations stem from the defendant's concealing the size of her payroll from IRS to avoid paying taxes. She did this by, among other things, maintaining two payrolls where she deducted the correct amount of tax for some of her employees, but paid the majority of them using a second payroll wherein income taxes were not withheld nor were payroll taxes paid to the IRS. Finally, the mail fraud convictions stem from Deleon's mailing workers compensation insurance documentation to insurance representatives that concealed the existence of those workers who received paychecks without taxes withheld, thereby reducing the amount of worker compensation insurance that she was required to pay.

The defendant fled to the Dominican Republic three days prior to sentencing in March 2010 and was extradited to the United States in November 2010.

United States v. Honey Creek Contracting Company, et al., 11-CR-0050 (S.D. Ohio)

On August 23, 2011, Honey Creek Contracting Company (Honey Creek), and company owner A. David Sugar, were sentenced for their involvement in the improper removal of asbestos. **Sugar was sentenced to complete a three-year term of probation, which includes**

spending the first 15 weekends in jail, followed by 21 weeks of home confinement. He also will pay a \$10,000 fine. Honey Creek was ordered to pay a \$30,000 fine and will pay for employees involved in the illegal asbestos removal to obtain baseline X-rays.

The defendants pleaded guilty in March 2011, to a five-count information charging them with violations stemming from an illegal renovation of the Weirton Steel Plant (WSP). Specifically, they pleaded guilty to conspiracy to violate the Clean Air Act and to four CAA NESHAP violations (18 U.S.C. § 371; 42 U.S.C. § 7413(c)(1)).

In July 2004, Sugar purchased the steel plant on behalf of Honey Creek for renovation. Prior to the defendants' purchase of the facility, an environmental consultant determined that there was approximately 30,000 linear feet of asbestos piping throughout the entire plant. Almost 6,000 linear feet of pipe was located in a single area (known as the "Green Room") where the majority of the insulation was intact. The consultant was not retained, however, to remove the asbestos from the plant.

Beginning in approximately August 2004, Sugar participated in and oversaw the renovation activities. As the crew began to remove dry asbestos-covered pipe from the Green Room, they simply dropped it to the ground floor. After an inspection of the facility by state environmental officials in 2005, a licensed asbestos removal contractor was brought in to properly finish the job.

United States v. Peter DeFilippo et al., 10-CR-20013 (E.D. Mich.)

On August 9, 2011, Peter DeFilippo was sentenced to **serve 13 months' imprisonment**, followed by two years' supervised release. He also will pay a \$5,000 fine and an additional \$5,000 in restitution to a worker for medical expenses. David Olsen, Joseph Terranova, and DeFilippo previously pleaded guilty to charges stemming from their involvement in an illegal asbestos-removal project.

DeFilippo contracted through his company, Excel Demo, Inc., to supervise the demolition of a fire-damaged building at Harbour Club Apartments. This defendant knew that the building contained regulated asbestos-containing materials (RACM), and he also knew that he was required to have the RACM properly removed during the demolition. Despite this knowledge, DeFilippo instructed others to remove the RACM without the presence of a certified professional and without complying with work practice standards. Terranova was a supervisor for GFI Management Services, Inc. (the property management company for Harbour Club), and Olsen is a firefighter who also worked for DeFilippo. Olsen pleaded guilty to a Clean Air Act negligent endangerment violation (42 U.S.C. §7413(c)(4), Terranova pleaded guilty to a false statement violation (18 U.S.C. §1001), and DeFilippo pleaded guilty to a CAA violation (42 U.S.C. §7413 (c)(1)). Charges against Excel, a sham corporation, were dismissed.

***United States v. Guy Gannaway et al., 10-CR-00013, 00059 (M.D. Fla.)**

On July 21, 2011, Guy Gannaway was sentenced to **serve 90 days' incarceration, followed by six months' home detention**, as conditions of a three-year term of supervised release. A fine was waived, but Gannaway also will perform 30 hours of community service to

focus on speaking to contractor-related groups about asbestos removal. Stephen Spencer will pay a \$10,000 fine, complete a five-year term of probation, and will perform 30 hours of community service addressing contractor/architecture-related groups about asbestos removal.

Gannaway and Spencer were convicted by a jury in January of this year of conspiracy to violate the Clean Air Act and various CAA charges related to the mishandling of asbestos (18 U.S.C. § 371, 42 U.S.C. §7413.) Gannaway also was convicted of making a false statement (18 U.S.C. § 1001.) The jury acquitted co-defendant John Loder on five counts and could not reach a verdict on two remaining counts. Defendant Keith McConnell died earlier this year of an extended illness, and the case against him was dismissed.

From approximately November 2004 through September 2005, the defendants were involved in the purchase and renovation of apartment complexes for the purpose of converting them to condominiums. Gannaway was the owner of Gannaway Builders, Inc. (GBI), the general contractor on the project. McConnell was the GBI superintendent for renovation operations. Spencer was a partner in Sun Vista Indian Pass, LLC, the developer of the project and also was the architect for the project.

Evidence at trial showed that asbestos-containing materials were mishandled by the defendants, despite repeated warnings from the Pinellas County Air Quality Division and various asbestos consultants and contractors. In at least two of the complexes slated for renovation and conversion, the ceilings within the buildings were coated with a “popcorn” ceiling mixture that contained significant amounts of asbestos. During the course of the renovations, the defendants disturbed and caused others to disturb large quantities of this material without notifying regulators and without following the work practice standards for asbestos. Photographs showed wide-ranging disturbances of asbestos-containing material as well as improper disposal of those materials in general construction debris dumpsters. GBI employees were also depicted dry sweeping debris, resulting in significant clouds of dust in areas where asbestos was found. Co-defendant James Roger Edwards previously pleaded guilty to being an accessory-after-the-fact for his failure to notify or report an improper removal of asbestos.

***United States v. Peter Ward, 11-CR-00196 (S.D.N.Y.)**

On July 7, 2011, Peter Ward, formerly a licensed asbestos investigator, **was sentenced to serve 27 months’ incarceration**, followed by three years’ supervised release. He also will pay a \$2,000 fine. Ward previously pleaded guilty to violating the conditions of his supervised release imposed following his 2006 conviction for asbestos-related violations of the Clean Air Act. Ward specifically pleaded guilty to a 17-count information charging him with filing 17 false reports with the Probation Office regarding his employment.

From the early 1990s until July 2005, Ward held a New York City Asbestos Investigator's license. In July 2005, his license was revoked, after which he held no licenses to perform asbestos-related work. Ward operated two companies, TUC Environmental Group, Inc., and Oak Drive Enterprises, Inc. Since April 2002 neither company has been licensed to perform asbestos-related work.

In June 2006, Ward was sentenced to serve 27 months’ incarceration, followed by three years’ supervised release, for improperly removing asbestos from a police precinct building in Queens and an apartment building in Brooklyn. Ward had pleaded guilty to one CAA charge,

admitting that in 2001 he improperly removed the asbestos from the apartment building, and had attempted to conceal his actions by not notifying the EPA.

***United States v. Charles Yi et al., 10-CR-00575 and 00793 (C.D. Calif.)**

On June 6, 2011, Charles Yi was sentenced to serve 48 months' incarceration, followed by two years' supervised release. John Bostick was sentenced to serve six months of home confinement as a condition of a three-year term of probation. Bostick also will complete 150 hours of community service.

Yi was convicted by a jury after a two-week trial on a conspiracy violation and five Clean Air Act counts stemming from his involvement in the renovation of a 200-plus-unit apartment building in January and February of 2006. Co-defendants Joseph Yoon and Bostick previously pleaded guilty to a Clean Air Act conspiracy violation.

Yi was the owner of the now-defunct Millennium-Pacific Icon Group, which owned the apartment complex that was being converted into condominiums in 2006. Knowing that asbestos was present in the apartment ceilings, Yi and his co-conspirators hired a group of workers who were not trained or certified to conduct asbestos abatements. The workers scraped the ceilings of the apartments without knowing about the asbestos and without wearing any protective gear. The illegal scraping resulted in the repeated release of asbestos-containing material throughout the complex and the surrounding area. After the abatement project was shut down, the asbestos was cleaned up at a cost of approximately \$1.2 million. Yi was further ordered to pay \$5,400 in restitution to cover the cost of medical monitoring for three workers involved in the illegal asbestos removal. Yoon remains scheduled for sentencing in July 2011.

United States v. Robert Joe Knapp et al., 10-CR-00025 (S.D. Iowa.)

On June 22, 2011, Robert Joe Knapp was sentenced to serve 41 months' incarceration, followed by two years' supervised release. Knapp also must pay a \$2,500 fine and perform 300 hours of community service. Knapp pleaded guilty to one count of conspiracy to violate the Clean Air Act and to one count of failing to remove all regulated asbestos-containing material (RACM) from the Equitable Building before commencement of a three-year renovation project. Co-defendant William Coco pleaded guilty to the same charges and is scheduled to be sentenced on July 13, 2011.

Knapp, as the owner of the Equitable Building, which was located in downtown Des Moines, oversaw its renovation from 2006 through February 2008. The renovation included the disturbance of asbestos-containing pipe insulation and tile as workers gutted several floors of the building while converting the floors into luxury residential condominium units and additional commercial space.

Knapp admitted to conspiring with Coco, his construction manager, to illegally remove more than 260 feet of RACM from steam pipes and more than 160 square feet of floor tile containing RACM from the building, which subsequently was illegally disposed of in an uncovered dumpster. None of the workers involved in the project were properly trained to perform asbestos abatement work.

United States v. Daniel Black, 10-CR-00303 (W.D.N.Y.)

On March 1, 2011, Daniel Black **was sentenced to serve 12 months and one day of incarceration, followed by two years' supervised release. He was further ordered to pay a \$30,000 fine.** Black previously pleaded guilty to a two-count information charging a Clean Air Act violation for failure to conduct an inspection before starting an asbestos abatement and to a tax violation for filing a false tax return.

In July 2008, Black, the president of Blackstone Business Enterprises, Inc. (BBEI), authorized the cleanup of a four-story building in Jamestown, New York. Using an employment agency, Black hired four temporary workers to complete the project. The work included the removal of steam pipes later confirmed by inspectors to contain asbestos insulation from three floors.

The income tax offense involved Black's failing to report a total of \$536,196 over a three-year period in reportable income that he received from BBEI, which resulted in a total tax loss of \$191,669.

As part of the plea agreement, Black has paid a penalty of \$205,000 to OSHA, to resolve citations issued during the agency's inspection of the project, and \$25,000 to the New York State Department of Labor Asbestos Control Bureau, to resolve the notice of violations issued during its inspection. He also has paid the \$191,669 in back taxes plus penalties and interest owed to the IRS.

United States v. James Robert Soyars, Jr., 10-CR-00090 (D. Colo.)

On February 8, 2011, James Robert Soyars, Jr., was **sentenced to complete six months' incarceration followed by six months' home confinement. Soyars also will pay \$437,437 in restitution to a public storage facility for its cleanup costs, and he will complete a three-year term of probation.** Soyars previously pleaded guilty to two Clean Air Act violations for failing to properly dispose of regulated asbestos-containing material (RACM).

Soyars was the owner and operator of Talon Environmental, an asbestos abatement company located in Colorado. He also was a certified asbestos abatement supervisor. In February 2005, after the company began having financial difficulties, Talon instructed employees to store RACM in storage units that had been rented from a public storage company.

In September 2005, Talon removed RACM from a bowling alley, most of which ultimately ended up in a public storage unit, after Soyars assured state inspectors that the material was going to be properly disposed of. In August 2006, the defendant engaged in similar illegal storage activities during the abatement of an office building by directing employees to place approximately 100 bags of RACM inside another public storage unit.

After inspectors were tipped off to this activity, they found some of the units to be so full that the doors were bulging outward, with a significant amount of loose dry powder spread around inside the units. After the execution of a search warrant in 2006, a cleanup was undertaken at the public storage facility.

United States v. Wolfgang "Tito" Roempke et al., 10-CR-00062 (W.D. Wash.)

On January 7, 2011, Wolfgang "Tito" Roempke was sentenced to serve **30 days' incarceration** followed by three years' supervised release. He also was ordered to pay a \$50,000 fine and to make an additional \$50,000 community service payment to the National Environmental Education Foundation. Michael Neureiter will serve **12 months and one day of incarceration** followed by three years' supervised release. A fine was not imposed against Neureiter.

Roempke was the owner of a vacant building that was demolished in late August and early September of 2008. The four-count indictment charged Roempke and two contractors, Neureiter (working with A&D Company Northwest, Inc.) and James Thoreen (working with JT Environmental, Inc.) with conspiring to conceal the fact that regulated asbestos containing material (RACM) was present in the building by submitting falsified documentation to appropriate authorities, thereby preventing them from monitoring the demolition and asbestos disposal.

After Roempke received a survey of the building that confirmed the presence of RACM, he obtained quotes from two asbestos abatement companies for the proper removal of the material. Having been told it would cost approximately \$20,000, he contacted co-defendants Thoreen and Neureiter for the purpose of conducting a new survey. Neureiter told Thoreen to complete the survey in such a way as to not find any RACM in the building. Thoreen proceeded to take samples from parts of the building where asbestos was unlikely to be found and informed Roempke that it would cost \$8,000 to remove the material. When Thoreen gave the samples to a lab for analysis, he instructed that they use a particular methodology ensuring that the test results would not trigger any asbestos work practice standards. Notification containing this falsified information was then transmitted to the Puget Sound Clean Air Act Agency stating that no asbestos would be removed as part of the demolition project.

Roempke pleaded guilty to a Clean Air Act violation and Neureiter and Thoreen each pleaded guilty to a CAA conspiracy charge. **Thoreen was previously sentenced to complete a two-year term of probation** and was ordered to pay a \$4,000 fine.

***United States v. Starnes, 583 F.3d 196 (3rd Cir. 2009)**

On September 24, 2009, the Third Circuit Court of Appeals **affirmed the convictions and sentences** of both Cleve-Allan George and Dylan Starnes. Both were sentenced to **serve 33 months' incarceration** followed by three years of supervised release, following a jury trial in June 2005. Both were convicted on all 16 counts, including Clean Air Act and false statement violations, related to a demolition project in a low-income housing neighborhood.

George and Starnes were hired by the Virgin Islands Housing Authority ("VIHA") to remediate asbestos in an old building scheduled for demolition. They filed a work plan with the VIHA which indicated that they would follow all applicable regulations, including EPA and OSHA regulations. The defendants violated the asbestos work practice regulations by, among other things, failing to properly wet the asbestos during removal. The defendants also filed false air monitoring documents with the VIHA and falsely labeled the asbestos as non-friable when it was sent to Florida for disposal.

***United States v. Alexander Salvagno et al., 2009 WL 2634647 (2d Cir. Aug. 28, 2009).**

On August 28, 2009, the Second Circuit Court of Appeals **affirmed the convictions** of Alexander and Raul Salvagno for illegal asbestos activities over the course of a decade. The Court previously dismissed the appeal of AAR Contractor, Inc. (AAR), for its failure to prosecute its appeal. In affirming their convictions, the **Court upheld the longest terms of incarceration (25 and 19.8 years, respectively)** imposed in United States history for environmental crimes.

The Salvagnos and numerous high ranking AAR supervisors were charged with a conspiracy to violate RICO (based upon predicate acts of money laundering, mail fraud, and obstruction of justice); a conspiracy to violate the Clean Air and Toxic Substances Control Acts; numerous substantive Clean Air Act violations; and, as to Alex Salvagno only, tax fraud. The proof presented during the five-month trial demonstrated a wide-spread scheme to perform illegal asbestos “rip and runs” at 1,555 separate locations. With the Salvagnos’ encouragement, many of the 500 workers employed by AAR performed the asbestos removals without wearing respirators, and decontamination units were rarely provided. As an integral part of the scheme, Alex Salvagno secretly owned Analytical Laboratories of Albany, Inc. (ALA), a purportedly wholly independent company that performed air monitoring and laboratory analysis. Evidence at trial showed that ALA falsified up to 70,000 samples to fraudulently convince business and home owners that their buildings were safe to re-occupy and that AAR should be paid for its work. Numerous ALA high ranking officials were separately prosecuted and testified at trial. In total, 16 AAR and ALA individuals were sentenced to serve terms of imprisonment for their involvement in the illegal activities.

On appeal, the Salvagnos raised 25 separate issues which the Second Circuit rejected *in toto*, including a challenge to their promotion of money laundering conviction based upon the Supreme Court’s fractured decision in *United States v. Santos*, 128 S. Ct. 2020 (2008), decided subsequent to their convictions. The court further rejected numerous challenges to the environmental components of their sentences, including that the offense posed a substantial likelihood of death or serious bodily injury to workers. Testimony taken at the sentencing hearing established that at least 100 workers with the lengthiest exposure are now substantially likely to contract asbestos-related diseases, including asbestosis, lung cancer, and mesothelioma, the latter being an invariably fatal form of cancer. The court of appeals further upheld sentencing determinations that the offenses should be enhanced because asbestos was dumped into public wastewater systems in violation of the Clean Water Act, and that the Salvagnos engaged in an abuse of trust through their fraudulent ALA laboratory and project monitoring activities.

United States v. John Wood et al., 06-CR-00494 (N.D.N.Y.)

On February 6, 2009, John Wood was sentenced to serve **48 months’ incarceration** and was ordered to pay approximately \$800,000 in restitution. Wood pleaded guilty in September of last year to conspiracy to violate the CAA and to commit mail fraud related to illegal asbestos removal activities at numerous locations in New York State. He also pleaded guilty to a contempt charge for violating his pre-trial release conditions including engaging in additional asbestos violations. Co-defendant Curt Collins was sentenced to serve **24 months’**

incarceration and was ordered to pay \$100,000 in restitution. Collins pleaded guilty in 2007 to a conspiracy charge.

Wood is the owner of J&W Construction, an asbestos removal company. On various dates in 2005 and 2006, Wood supervised individuals who were engaged in renovation or removal projects, instructing workers to remove asbestos-laden material from businesses and residences in an illegal and unsafe manner.

United States v. Matthew Burghoff, 08-CR-00199 (E.D. Mo.)

On December 18, 2008, Matthew Burghoff was sentenced to serve **24 months'** **incarceration** followed by five years' supervised release. He was further ordered to pay \$524,548 in restitution as the result of pleading guilty to one Clean Air Act violation and one bank fraud violation. Burghoff previously was charged with multiple counts of bank fraud, money laundering, false statements, and violations of the CAA stemming from his renovation of a building in St. Louis, Missouri, and numerous other buildings and businesses in the St. Louis area.

In September 2007, the City of St. Louis Air Pollution Control Division received an anonymous tip stating that unqualified personnel were removing asbestos-insulated piping at the Ford Building. On October 1, 2007, an inspector with the Missouri Department of Natural Resources conducted an inspection and observed asbestos debris swept into piles and approximately 60 black bags containing dry asbestos material. As the owner and operator of the building, Burghoff was present during this inspection.

The bank fraud and money laundering charges stem from a loan the defendant made from the Montgomery Bank in order to purchase and renovate the Ford Building. The indictment states that Burghoff had a subcontractor inflate a bill by approximately \$133,000 that then was forwarded to the bank, which subsequently paid the extra money to the subcontractor. The subcontractor then kicked back the money to Burghoff. Finally, the defendant was charged with diverting money from bank loans on other buildings he renovated, representing the money as funds to be paid to subcontractors.

***United States v. Wassim Mohammad Azizi, 06-CR-00548 (N.D. Calif.)**

On August 28, 2008, Wassim Mohammad Azizi was sentenced to serve **ten months'** **incarceration** followed by two years' supervised release. Azizi was convicted by a jury in May of this year after a seven-day jury trial of three felony counts for violating the Clean Air Act stemming from the illegal demolition of a building that contained significant amounts of asbestos.

Azizi purchased a commercial building with the intent to demolish it and construct a new building. Following the purchase and the discovery that the building contained asbestos, the defendant hired an unlicensed handyman to commence with the demolition.

Between December 1, 2002, and February 1, 2003, Azizi illegally demolished the building and placed workers and the public at risk. He was convicted of violating several work practice standards, including the failure to properly notify the Air District, failure to wet the

asbestos-containing material, failure to keep it in leak-tight containers, and failure to dispose of it at an authorized location.

United States v. Russo, 2008 WL 2415052 (2d Cir. June 13, 2008)

The defendant pleaded guilty to one count of conspiring to violate the Clean Air Act by conducting asbestos abatement without following applicable U.S. EPA regulations. After applying three 4-level enhancements under the now advisory Sentencing Guidelines, the district court sentenced defendant to **18 months' imprisonment**, which the defendant appealed.

Held: The Second Circuit **affirmed the judgment of the district court**. The court found that, although a 6-level enhancement under section 2Q1.2(b)(1)(A) of the Guidelines for continuous, ongoing, and/or repetitive discharge would not have been appropriate, the 4-level enhancement applied under section 2Q1.2(b)(1)(B) for discharge of hazardous materials into the environment was amply supported by the record. Workers recruited to remove asbestos had not been provided with a decontamination unit to remove asbestos from their bodies nor the ability to clean their tools; thus, friable asbestos had been carried from the buildings to the outdoor environment. It also found that the 4-level enhancement under section 2Q1.2(b)(3) for causing contamination that resulted in substantial cleanup expenditures had been justified. The cleanup cost for two plants had been more than \$2.5 million. The court rejected the defendant's argument that that cost had been due to the pre-existing contamination of the facilities rather than to contamination created by the defendant's unlawful removal activities.

The Second Circuit also rejected the defendant's argument that, rather than the 4-level enhancement applied under section 3B1.1(a) for his leadership role in an offense involving at least five people, he should have received only a 3-level enhancement as a mere supervisor. The district court findings clearly established the defendant's co-leadership role in the hiring and control of the workers who performed the asbestos removal. The court further found no error in the district court's declining to grant a 1-level reduction for acceptance of responsibility, and it found no bad faith in the government's decision not to file such a motion. Defendant admitted to only the least serious of the charges against him while continuing to deny the most serious accusations. Thus, he had not *fully* accepted responsibility.

The Second Circuit found that the district court adequately had considered all of the sentencing factors in 18 U.S.C. §3553(a). Finally, it rejected the defendant's claim that there had been unwarranted disparate treatment of the three defendants in the case. The defendant was not on an equal footing with his co-defendants in participation in the criminal activity, especially in his lesser acceptance of responsibility for his actions.

United States v. John Chick, 06-CR-514 (N.D.N.Y.)

On March 6, 2008, John Chick was sentenced to serve **15 months' incarceration** followed by three years' supervised release. He also will pay \$108,000 for cleanup costs.

Chick pleaded guilty in January 2007 to conspiracy to violate the Clean Air Act stemming from the illegal removal of asbestos from the Cayuga County Board of Elections Building in Auburn, New York. He originally was charged with conspiring to violate the CAA; six substantive CAA violations related to the illegal removal and disposal of asbestos from the

building in February 2006; and three counts of making false statements, including denying that he used Cayuga County prison inmates to perform some of the illegal work and falsely stating that he gave them masks during the removal activities.

***United States v. Guy Hylton et al., 06-CR-00299 (W.D. Okla.)**

On January 10, 2008, Guy Hylton, Jr., was sentenced to serve **six months' incarceration and ordered to pay a \$15,000 fine. Co-defendant Chick Little was sentenced to serve eight months' incarceration followed by two years' supervised release.**

Hylton, Jr., the city manager for Elk City, Oklahoma, and Little, a building superintendent for the city, were found guilty by a jury in August 2007 of a Clean Air Act negligent endangerment charge. Little also was convicted of a false statement violation.

In May 2002, Hylton bought a former railroad depot built in the 1900s that was renovated and used by the City. During a five-month period in 2003, inmates from a local work program were used to remove asbestos from the property without being provided the proper protective clothing or equipment.

The defendants originally were charged with a CAA knowing endangerment violation and a CAA violation for causing the waste to be taken to a dump that was not licensed to handle it. Both had been charged with false statements for informing investigators that the waste had been properly disposed. The jury convicted on the lesser negligent endangerment offense.

The defendant obtained these chemicals and electronic wastes by diverting them from the household hazardous waste turn-in facility where he worked. The lost recycling re-sale revenue to his employer and various municipalities totaled \$92,410. Grummer will pay \$18,111 to the City of Vista, \$6,644 to the City of Poway, \$6,047 to City of Escondido, and \$61,607 to Clean Harbors Environmental Services, his former employer.

United States v. Robert Langill, 07-CR-00425 (D. Md.)

On January 10, 2008, Robert Langill was sentenced to serve **60 days' incarceration, followed by 10 months' home detention**, and two years of supervised release, for violating the Clean Air Act in connection with asbestos abatement at the U.S. Naval Air Station, Patuxent River.

From 2001 to 2004, Langill was employed with a Maryland asbestos abatement company as an asbestos abatement project supervisor. In 2003, the company entered into an agreement with the U.S. Navy to remove asbestos-containing material from several buildings undergoing renovation or demolition at the U.S. Naval Air Station, Patuxent River, Maryland.

From October 2003 to January 2004, Langill directed the removal of transite panels containing asbestos from Buildings 692, 213 and 425 in a manner that violated federal asbestos abatement work practice standards, in that workers were directed to remove the panels by smashing them with hammers and crowbars, allowing the transite to fall to the ground and break, causing asbestos fibers to be released into the environment. The transite panels from Building 692 had not been adequately wetted and no notification of the abatement activity had been given to the Maryland Department of Environment prior to the commencement of the abatement activity. In addition, unlabelled, improperly sealed bags of the broken asbestos-containing

transite panels from Building 692 were stored on the grounds of the naval facility overnight in a truck owned by the company.

United States v. Sheon DiMaio, et al., 2007 WL 3256658 (2d Cir. Nov. 6, 2007).

On December 5, 2007, a summary order was filed by the Second Circuit affirming Sheon DiMaio's sentence of **42 months' incarceration** imposed in February 2006. DiMaio was a defendant in the Salvagno litigation, and was employed as a field supervisor who carried out the Salvagnos' orders to engage in and direct others in illegal asbestos activities during approximately five years of this 10-year conspiracy. He pleaded guilty in 2002 to conspiracy to violate the Clean Air and the Toxic Substances Control Acts and to a substantive Clean Air Act violation.

DiMaio challenged his sentence as being unreasonable, pointing to the disparity between his sentence and those who had been given lesser sentences. While some supervisors received longer sentences, other supervisors (who cooperated far more extensively) received greater leniency than DiMaio. The Court rejected his argument, recognizing that DiMaio had cooperated far less than others who received reduced sentences.

The five remaining cooperating defendants were sentenced in December 2006, and in August 2006, Alexander Salvagno was re-sentenced to serve 25 years' incarceration. This remains the longest sentence ever imposed for an environmental crimes' conviction. His father, Raul Salvagno, was re-sentenced to serve 19½ years' incarceration, which is the second longest environmental criminal sentence. Eight other defendants have been prosecuted in this matter.

United States v. John Brewer et al, 06-CR-00383 (N.D.N.Y.)

On November 2, 2007, John Russo, John Brewer, and Mario Rolla, were sentenced for their involvement in illegal asbestos removal and disposal activities. All three defendants pleaded guilty to conspiring to violate the Clean Air Act.

In April and August of 2005, Rolla hired Russo and Brewer to remove asbestos from facilities located in Massachusetts and New York. The asbestos was not properly removed nor were regulatory officials notified of the removals. The defendants scattered substantial amounts of asbestos throughout the facilities, where it was left until discovered by the USEPA. Rolla paid coconspirators \$40,000 in cash for the two projects. Clean up resulting from the illegal asbestos activities has cost well in excess of \$2.5 million.

Russo and Brewer each were sentenced to serve **18 months' incarceration**, followed by two years' supervised release. Russo's request for a stay of his sentence pending appeal was denied. Rolla was sentenced to serve a five-year term of probation and will pay a \$40,000 fine. Rolla was not sent to prison based upon his age (77) and his substantial assistance to federal authorities in prosecuting Russo. Rolla also paid the \$2.5 million in clean-up costs.

United States v. Charles Powell, Jr., et al., 07-CR-30013 (S.D. Ill.)

On August 13, 2007, Charles Powell, Jr., the owner of Powell's Demolition Company, was sentenced to serve **15 months' incarceration** followed by two years' supervised release. Powell pleaded guilty in June of this year to conspiracy to violate the Clean Air Act and one CAA count for failing to notify authorities prior to removing regulated asbestos-containing material. Powell directed others to remove asbestos without protective gear, without wetting the asbestos prior to removal, without notifying the contract waste haulers that they were hauling asbestos material, and without notifying the Illinois Environment Protection Agency prior to the removal work.

Powell originally had contracted with real estate developer Phil Cohn to renovate the Spivey Building in East St. Louis. The defendants had intended to rehabilitate the 12-story building, the tallest building in Southern Illinois, into an office and shopping center. Cohn previously pleaded guilty to a CAA violation and in 2005 was sentenced to serve five years' incarceration related to his submitting false invoices to a school district for environmental cleanup work at the Clark Middle School site.

Co-defendant Isaiah Newton pleaded guilty in July 2007 to conspiracy to violate the Clean Air Act. Under Powell's direction, Newton supervised the crews that removed the asbestos from the Spivey Building. Newton was sentenced on October 17, 2007 to complete a two-year term of probation with a special condition of **six months' home confinement**. A fine was not assessed.

United States v. John Callahan, 06-CR-00085 (W.D. Va.)

On August 3, 2007, John Callahan, a two-time convicted felon, was sentenced to serve **21 months' incarceration** for illegally removing asbestos from a government building in Roanoke, Virginia. Callahan also used homeless men to conduct the work.

The City of Roanoke hired Callahan, who operated Environmental Construction, to remove asbestos-containing material from the building in March 2004. Callahan hired three homeless men to do the work, knowing the men were not certified or properly trained to remove asbestos, nor did he provide them with the necessary protective gear. Callahan paid each man \$10 per hour for over three days of work and instructed them to cut the asbestos-containing material with knives and hack saws without first wetting it. After the material was placed in unmarked garbage bags, Callahan hired a trash hauler to dispose of the waste at a landfill in Roanoke. Although the landfill had a special area for asbestos-containing material, the waste was improperly disposed of because Callahan failed to identify it.

Another company had to be hired at a cost of \$12,000 to properly remove the asbestos from the Roanoke building after Callahan started the job.

United States v. Troy Donie, 06-CR-00146 (N.D.N.Y.)

On December 6, 2006, Troy Donie pleaded guilty to, and was sentenced for, a CAA conspiracy violation. He must serve **27 months' incarceration** followed by three years' supervised release and pay approximately \$28,950 in restitution.

Donie was the project manager for an asbestos abatement company. He participated in and supervised the illegal removal of asbestos from the St. Eustace Church in Lake Placid, New York, without the knowledge of his employer. The defendant lied to federal investigators and failed to provide federal and state officials with the proper documentation for this project. Donie also led church officials to believe that the abatement work would be properly completed. The restitution will be given to the Church to assist in clean-up costs.

United States v. AAR Contractor, Inc., et al., 00-CR-00099, 101, 450; 5:02-CR-00051 (N.D.N.Y.)

On December 4, 2006, the five remaining defendants who cooperated extensively in the prosecution of Alex and Raul Salvagno were sentenced along with AAR Contractor, Inc. ("AAR").

The Salvagnos and AAR were convicted in March 2004 of 14 felony counts following a five-month jury trial. They were variously convicted of conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act ("RICO"), conspiracy to violate the CAA and TSCA, substantive CAA violations, and tax fraud violations stemming from an illegal asbestos removal scheme that spanned approximately ten years.

The Salvagnos owned AAR, which was one of the largest asbestos abatement companies in New York State. For almost a decade, the defendants engaged in multiple illegal asbestos abatement projects. From 1990 until 1999, Alex Salvagno secretly co-owned a purportedly independent laboratory, Analytical Laboratories of Albany, Inc. ("ALA"). The Salvagnos used ALA to defraud victims by creating fraudulent laboratory analysis results that were used to show that all asbestos had been properly removed as promised by the defendants. These results were taken from more than 1,555 facilities throughout the state, with the falsification of approximately 75,000 laboratory samples from asbestos abatements at elementary schools, churches, hospitals, state police barracks, the New York legislative office building, and other public buildings and private residences. Witnesses, including many former AAR and ALA employees, testified to "rip and run" activities directed by the defendants that included indoor "snow storms," which were releases of large amounts of visible asbestos into the air during the removal process. Evidence established that workers were knowingly sent into asbestos "hot zones" while being encouraged to work illegally without respirators or without sufficient replacement filters for the respirators.

1) Timothy Carroll, the public owner of Analytical Laboratories of Albany, was sentenced to serve **26 months in prison**, followed by two years' supervised release and 200 hours of community service. He will be held jointly and severally liable for the \$22,875,575 in restitution to be paid to victims. Carroll pleaded guilty to a conspiracy to violate the CAA and to commit mail fraud.

2) Gary Alvord, the director of operations for AAR Contractor, was sentenced to serve **15 months in prison**, followed by two years' supervised release and 200 hours of community service. Alvord pleaded guilty to a conspiracy to violate the CAA and TSCA and to substantive CAA violations.

3) Robert Obrey, an AAR field supervisor, was sentenced to serve **15 months in prison**, followed by two years of supervised release and 200 hours of community service. Obrey pleaded guilty to a conspiracy to violate the CAA and TSCA and to substantive CAA violations.

4) Philippe Goyeau, the ALA executive director, was sentenced to serve **eight months in prison**, followed by two years of supervised release and 200 hours of community service. Goyeau pleaded guilty to a conspiracy to violate the CAA.

5) Alison Gardner, the ALA laboratory director, was sentenced to serve three years of probation and must complete 300 hours of community service. Gardner pleaded guilty to a conspiracy to violate the CAA and to commit mail fraud.

Because of their significant cooperation, the sentence for each of the individuals above was substantially lower than what would have been generated by the sentencing guidelines.

AAR Contractor was sentenced to pay approximately \$22,875,575 in restitution to victims of the asbestos scheme. The company also must forfeit \$2,033,457 to the United States. On August 30, 2006, Alexander Salvagno was re-sentenced to serve 25 years' incarceration. This remains the longest sentence ever imposed for an environmental crime. His father, Raul Salvagno, was re-sentenced to serve 19½ years' incarceration, which is the second longest environmental criminal sentence. The Salvagnos also are responsible for nearly \$23 million in restitution to be paid to victims and must forfeit an additional \$5.7 million to the federal government, some of which will be used to pay restitution to victims. Eight other defendants have been prosecuted in this matter.

United States v. Joseph Cannella et al., 01-CR-00090, 3:04-CR-00152, 1:05-CR-00103 (D. Colo.)

On November 20, 2006, Joseph Cannella was sentenced to serve **six months' home confinement** and was ordered to pay a \$40,000 fine. The defendant also will be subject to a lifetime ban from the asbestos abatement industry.

Cannella pleaded guilty in September of this year to two counts of negligent endangerment under the Clean Air Act. The pleas grew out of charges that Cannella, a senior management employee at National Service Cleaning Corporation ("NSCC"), an asbestos abatement contractor, and co-defendant Steven Herron, owner of Steve Herron and Associates ("SH&A"), an asbestos abatement consultant, conspired and caused multiple violations of CAA work practice standards relating to the removal and disposal of asbestos at Fort Morgan High School in Fort Morgan, Colorado, in July and August, 1999. Both defendants also were initially charged with multiple mail fraud violations. Herron had been charged with making a false writing in violation of 18 U.S.C. § 1001. Before he could plead guilty, Herron was involved in a serious motorcycle accident and passed away September 14, 2006. A motion to dismiss charges pending against him was filed.

Two other co-defendants previously have been sentenced in this case. Daniel Argil also was employed by NSCC to remove asbestos from the school and was sentenced to serve **68 months' incarceration**, followed by three years' supervised release, for his role as the project supervisor. He also was ordered to pay \$232,052.90 in restitution to the Morgan County School District.

Argil caused a significant amount of hazardous asbestos to be released into the air at Fort Morgan High School and directed employees to mishandle the material during the removal process. A high-powered water sprayer was used to remove the asbestos, which resulted in asbestos being discharged outside the containment area. The water-laden asbestos migrated to areas within the school, including inside lockers and wall systems. After the water evaporated,

the asbestos remained as a dry powder that easily became airborne and thus was much more dangerous. As a result of his actions, Argil left Fort Morgan High School contaminated with asbestos when students, faculty, staff and employees returned to the school in the fall of 1999. Further, NSCC employees made efforts to conceal the company's failure to properly conduct the asbestos abatement project. Argil pleaded guilty to two felony CAA violations and a mail fraud violation. Co-defendant David Backus, an employee for SH&A, pleaded guilty to two mail fraud violations and was sentenced in May 2005 to serve 18 months' incarceration followed by three years' supervised release. Backus also was ordered to pay \$15,800 in restitution.

United States v. Jason Scardecchio et al., 05-CR-00472 (E.D. Pa.)

On October 18, 2006, Jason Scardecchio, lead supervisor of Indoor Air Quality, Inc. ("IAQ"), an asbestos removal company, was sentenced as a result of pleading guilty in June of this year to two counts of mail fraud and one count of violating the Clean Air Act National Emissions Standard for Hazardous Air Pollutants ("NESHAP") for asbestos. He was sentenced to serve **one year and one day of incarceration**, followed by a three-year term of supervised release. Scardecchio also will pay \$11,804.67 in restitution. The restitution will pay for medical examinations for employees of the company and also will reimburse certain homeowners who had subsequent air testing performed. The court at sentencing noted that a period of incarceration was warranted in order to, among other things, provide for general deterrence in the regulated community. Under the sentencing guidelines, Scardecchio faced a term of imprisonment between 18 and 24 months. Although the court did not state that it disagreed with the guidelines' calculation provided by the government, it chose to downward depart and did not disclose its reasoning.

IAQ and company president Wallace Heidelmark pleaded guilty in January of this year to two counts of mail fraud and one count of violating the NESHAP. The charges arose from illegal asbestos removal projects performed in residences, commercial buildings, and a school in 2002. The mail fraud counts stem from a scheme to defraud homeowners concerning the removal of asbestos-containing material in their homes. IAQ had an extensive history of non-compliance and has been cited in three EPA administrative enforcement actions. The company previously paid civil penalties and entered into consent agreements.

Heidelmark was sentenced in July of this year to serve **24 months' incarceration** followed by three years' supervised release. He also must pay a \$5,000 fine and will be held jointly and severally liable for \$41,514.17 in restitution. IAQ was sentenced to complete two years' probation, pay a \$100,000 fine, and the \$41,514.17 restitution. The restitution will be provided to former employees and to homeowners. With regard to the employees, Heidelmark and IAQ are required to pay for medical examinations to be performed at a local hospital offering a worker health program specifically focused on workers in the asbestos removal industry. Heidelmark and IAQ also were ordered to pay restitution to certain homeowners who subsequently had air testing performed in their homes.

United States v. East Coast Capital Company LLC, et al., 06-CR-00043, 62, 64 (N.D.N.Y.)

On August 28, 2006, Andrew Swaap was sentenced to serve **21 months' incarceration** followed by two years' supervised release. Swaap was the director of acquisitions for the East Coast Capital Company, LLC ("East Coast"). The defendants were involved in the illegal removal and disposal of asbestos and perchloroethylene (a toxic chemical used in the dry cleaning industry) at a building owned by East Coast, which also hired workers to renovate the facility. The asbestos was disposed of in public trash dumpsters and the chemicals were disposed of into sewer drains.

East Coast was sentenced on August 24th to pay a \$500,000 fine, serve a two-year term of probation, and pay the unpaid balance in clean up costs which was \$49,500. The company pleaded guilty in March of this year to a conspiracy to violate the Clean Air and Clean Water Acts.

Glen Middleton, the property manager for the company, was sentenced August 15th to serve 27 months' incarceration followed by two years' supervised release for his involvement in the conspiracy. Middleton arranged for hiring untrained individuals who were not given any protective equipment while they illegally disposed of the asbestos and perchloroethylene. Swaap pleaded guilty to a similar conspiracy violation for helping to hire the untrained works, as well as arranging to purchase the building.

***United States v. Parkland Town Center, LLC, et al., 05-CR-80173 (S.D. Fla.)**

On August 1, 2006, Parkland Town Center, LLC ("Parkland"), a Palm Beach real estate development firm, and company owner and developer Neil Kozokoff, were sentenced in this asbestos abatement prosecution. Both defendants were sentenced to serve two-year terms of probation. Parkland also will pay a \$125,000 fine and \$45,000 to the Statewide Florida Environment Task Force Trust Fund. Kozokoff will pay a \$25,000 fine and complete 90 days' home confinement. The plea agreement had only called for 60 days, but the judge added 30 additional days.

Co-defendant Terry Dykes was sentenced in July to serve **24 months' incarceration** followed by two years' supervised release. He was taken into custody and immediately remanded to the Bureau of Prisons. Dykes, a subcontractor, was convicted by a jury in May of this year of CAA NESHAP violations for his involvement in the demolition/renovation of a West Palm Beach hotel between October 1999 and March 2000.

Parkland and Kozokoff pleaded guilty just prior to trial. The company pleaded guilty to one violation of the CAA for failure to file notice of a demolition or renovation, and Kozokoff pleaded guilty to being an accessory after the fact of a CAA violation for failure to file notice of demolition or renovation. General contractor Mark Schwartz pleaded guilty prior to indictment to one CAA violation and was sentenced in November 2005 to serve a five-year term of probation.

While installing a sprinkler system in the building, another contractor filed a complaint with the local building inspector after he discovered what he believed to be asbestos. Further investigation disclosed that asbestos had been illegally removed from a large boiler and the attached pipes located on the third floor of the building.

United States v. Peter Ward, 05-CR-00499 (S.D.N.Y.)

On June 20, 2006, Peter Ward, a licensed asbestos investigator, was sentenced to serve **27 months' incarceration** for improperly removing asbestos from a police precinct building in Queens and an apartment building in Brooklyn. In June 2005, Ward pleaded guilty to one CAA charge, admitting that in 2001 he improperly removed the asbestos from the apartment building, further stating that he attempted to conceal his actions by not notifying the EPA.

Ward has an extensive record of environmental violations going back more than a decade. During this period, the defendant and companies he controlled were issued Notices of Violation for work performed at 29 separate locations, including the current two, in New York City. Ward has previously fined \$115,000 by the City and continued to break the law even after pleading guilty in the current case. In January 2006, he pleaded guilty to a second CAA violation for the improper abatement at the precinct building. Ward was remanded into custody on March 9, 2006.

United States v. Bobby Newsome, 05-CR-00033 (E. D. Va.)

On November 4, 2005, Bobby Newsome was sentenced as a result of pleading guilty in March of this year to one false statement violation and two CAA violations. Newsome was sentenced to serve **three months' incarceration followed by three months' home detention** and two years' supervised release. He will also pay a \$10,000 fine.

The charges stem from two improper asbestos abatements at a junior high school and a residential development in 2000 and 2003. During the demolition projects, the asbestos-containing material was not kept wet as it was removed. Newsome also lied to OSHA in 2000, falsely stating that he and his employees had completed the required training and passed the exam for hazardous waste operations and emergency response accreditation.

From 1999 to 2000, Newsome was the General Operations Manager of ACS Environmental, Inc. ("ACS"). In approximately March 2000, Newsome contacted F&M Environmental Technologies, Inc., for the purpose of obtaining approximately 50 training certificates for ACS employees. The certificates were for the successful completion of certain OSHA and EPA-required training courses and had been backdated to falsely represent that the personnel had received the required training from 1996 through 2000.

***United States v. Ethel Mae Holmes, 03-CR-00574 (E.D. Va.)**

On November 7, 2005, Ethel Mae Holmes was sentenced to serve **five months' incarceration** followed by three years' supervised release. Holmes, the owner and president of Holmes Environmental, Inc., an asbestos and lead abatement business, was convicted on all counts of an indictment by a jury in March 2004.

Holmes had been charged with mail fraud, false claims and conspiracy to commit false statement violations, which stemmed from the purchase of false asbestos and lead abatement-related training certificates. From 1998 through 2001, Holmes purchased numerous false certificates from F&M Environmental Technologies. All the certificates were used to obtain contracts and work at federal and state facilities as well as other public buildings. Many of the jobs included hospitals and military installations in Virginia.

United States v. John Kay, 05-CR-00231 (E.D. Pa.)

On September 10, 2005, real estate developer John Kay was sentenced to serve **10 months' incarceration** followed by three years' supervised release. Kay was further ordered to pay a \$15,000 fine for directing illegal asbestos removal work at a self-storage facility he owned.

Kay pleaded guilty in June of this year to seven CAA violations for the improper removal of asbestos-covered heating pipes during a 1999 renovation of the self-storage facility. Laborers who removed the pipes did not first wet the asbestos insulation causing the dry materials to fall to the floor. This asbestos-containing debris was later dumped outside the building. Kay knew the pipe insulation contained asbestos but never informed the workers, nor did he provide them adequate training or protective equipment.

United States v. Vincent Fazzino, 04-CR-001582 (C.D. Calif.)

On August 29, 2005, Vincent Fazzino was sentenced to serve **90 days' incarceration** plus complete 100 hours of community service after pleading guilty to witness tampering. Fazzino was owner and operator of Environmental Engineering Technology, Inc. ("EET"), an asbestos remediation firm operating in southern California. He and his company were targets of an FBI investigation into EET's asbestos removal practices. After the defendant learned of the investigation, he ordered his employees to refuse to cooperate with the agents.

United States v. Thomas Reed, et al., 02-CR-00051 (N.D.N.Y.)

On June 23, 2005, Thomas Reed and Michael Shanahan were sentenced to **serve five and two years' incarceration, respectively**, following their guilty pleas for crimes related to illegal asbestos removal activities throughout New York State. Reed was further ordered to pay \$23 million in restitution to crime victims.

Reed was the general manager of AAR Contractor, Inc. ("AAR"), an asbestos abatement company formerly owned by Alexander and Raul Salvagno. Michael Shanahan was an AAR field supervisor. In December 2004, following a five-month trial, Alex and Raul Salvagno were sentenced to serve 25 and 19.8 years in prison, respectively, the latter being the longest term of incarceration yet imposed in an environmental crimes case.

Prior to the Salvagno trial, Reed pleaded guilty to 14 felonies including a RICO conspiracy; conspiracy to violate the CAA and TSCA; substantive CAA violations; and tax fraud counts, all of which were related to a ten-year illegal asbestos removal scheme. As part of the RICO charge, Reed admitted to being involved with the Salvagnos and AAR in the commission of multiple acts of obstruction of justice, money laundering, mail fraud, and bid rigging. Shanahan pleaded guilty to a conspiracy to violate the CAA and to substantive CAA violations.

The Salvagnos owned AAR, one of the largest asbestos abatement companies in New York State. For ten years the defendants engaged in multiple illegal asbestos abatement projects. From 1990 until 1999, Alex Salvagno secretly co-owned a purportedly independent laboratory, Analytical Laboratories of Albany, Inc. ("ALA"). The Salvagnos used ALA to defraud victims by creating fraudulent laboratory analysis results which were used to show that all asbestos had been properly removed as promised by the defendants. These results were taken from more than 1,555 facilities throughout New York State, with the falsification of approximately 75,000

laboratory samples from asbestos abatements at elementary schools, churches, hospitals, State Police barracks, the New York Legislative Office Building, and other public buildings and private residences. Witnesses, including many former AAR and ALA employees, testified to "rip and run" activities directed by the defendants that included indoor "snow storms," or the release of large amounts of visible asbestos into the air during the removal process. Evidence established that workers were knowingly sent into asbestos "hot zones", while being encouraged to work illegally without respirators or without sufficient replacement filters for the respirators.

United States v. Phillip Cohn, 04-CR-30051 (S.D. Ill.)

On May 20, 2005, Phillip Cohn was sentenced to serve **60 months' imprisonment** followed by five years' supervised release. He was further ordered to pay \$347,200 in restitution to East St. Louis, Illinois, School District 189. Cohn pleaded guilty in December 2004 to submitting false invoices to the school district for environmental cleanup work at the Clark Middle School site. From September 2002 through July 2003, he caused the endorsements of environmental companies to be forged on checks issued from an escrow account and used the money for personal expenses.

Cohn also pleaded guilty to a CAA violation for failing to remove substantial quantities of known asbestos-containing materials from the historic Spivey Building, the tallest building in East St. Louis, before sending work crews into the Building to conduct demolition and renovation work.

United States v. John Finnerty et al., 03-CR-249 (C. D. Calif.)

On October 18, 2004, Patrick Deegan was sentenced to **serve five months' incarceration followed by five months' home confinement**. **John Finnerty was sentenced to serve six months' home confinement** as part of a three-year term of probation. Finnerty, the former president of the now-defunct Remtech Restoration Corporation ("Remtech"), and Deegan, the former operations manager, pled guilty in May 2004 to CAA violations for violating asbestos NESHAPs. They also were each ordered to pay \$45,000 in restitution.

The defendants owned and operated Remtech which was in the business of removing asbestos and asbestos-containing components from demolition and renovation activities. They stockpiled approximately 800 bags at their facility that contained both friable and nonfriable asbestos-containing material that had been kept neither wet nor in leak tight containers. They also disposed of the bags by abandoning the facility.