

# Department of Justice

United States Attorney William J. Hochul, Jr.  
Western District of New York

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## **ROCHESTER ASBESTOS CONTRACTOR AND COMPANY SENTENCED FOR VIOLATING CLEAN AIR ACT AND LYING TO OSHA**

ROCHESTER, N.Y.— U.S. Attorney William J. Hochul, Jr. announced today that asbestos contractor Keith Gordon-Smith, owner of Gordon-Smith Contracting, convicted after a jury trial of multiple counts of violating the Clean Air Act, was sentenced to 72 months in prison and ordered to pay \$300,000 in restitution by Judge Charles J. Siragusa. The company, also convicted at trial, was ordered to pay \$44,000 in fines.

Assistant U.S. Attorney Craig R. Gestring and Department of Justice Environmental Crimes Senior Trial Attorney Daniel Dooher, who prosecuted the case, stated that the defendant caused employees of Gordon-Smith Contracting, Inc. to improperly remove asbestos during the partial demolition of a building on the site of the former Genesee Hospital in Rochester, NY.

Among other things, Gordon-Smith ordered workers to tear out copper pipes and scrap metal from the West Wing building, a six-story structure that contained over 70,000 square feet of asbestos. When the workers removed the pipes, ceiling tiles and scrap metal, they were repeatedly exposed to asbestos which they told jurors was falling on them "like snow." Workers testified that Gordon-Smith did not provide them with any masks or protective clothing during this time and that they would go home to their families at the end of their shifts in these same contaminated clothes. They testified that they asked Gordon-Smith if the material was asbestos, but he repeatedly told them it was not.

Gordon-Smith also made false statements to an OSHA inspector. Following worker complaints, OSHA sent an inspector to the Genesee Hospital in 2007 to ensure that the workers were protected. On three separate occasions, Gordon-Smith falsely denied that any pre-abatement disturbance of asbestos took place. He falsely stated that

tiles and scrap metal were torn out by other, unknown parties, when in fact he had himself ordered his workers to do so. Gordon-Smith then sold this material for cash after driving it to a local scrap metal facility.

Gordon-Smith also failed to properly remove all the asbestos from the West Wing once formal abatement began and left behind massive quantities of asbestos in the building knowing it was scheduled to be demolished. Agents from the United States Environmental Protection Agency (EPA) Criminal Investigations Division visited the site months after Gordon-Smith had allegedly cleared the building and found significant amounts of asbestos left behind on walls, pipes, and structural elements. They also found large quantities of asbestos which had been washed down pipe chases and shafts throughout the building as well as piles of asbestos in the basement. Given these conditions, EPA Agents instructed the building owner to stop demolition work and evacuate his workers until the material could be properly and safely removed. Remedial asbestos abatement cost the building owner an additional \$299,000.

The jury also convicted Gordon-Smith of multiple counts of failure to notify the EPA about asbestos related work done on the Genesee Hospital and several other sites within the Western District of New York. Federal law requires that a contractor notify the EPA prior to performing any work which would disturb a jurisdictional amount of asbestos so that inspectors can ensure that proper safeguards are in place. Gordon-Smith performed major asbestos abatement or renovation work at several area projects, including schools, colleges, and the Genesee hospital complex, without ever notifying the appropriate federal agency. When EPA Criminal Investigators visited the sites, they found asbestos left behind on pipes, walls, in utility rooms and other places. Several of those locations required additional asbestos abatement to remove the material left behind.

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

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

“Ensuring Clean Air Act work practice standards for asbestos are followed when renovating or razing a building is critical to protecting workers and the public,” said

Cynthia Giles, Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance. "This sentence shows that when employers fail to adhere to the requirements of the law to make a profit, the consequences are serious."

The guilty verdict is the culmination of an investigation on the part of Special Agents of the United States Environmental Protection Agency, Criminal Investigation Division, under the direction of William Lometti; the United States Department of Labor, Office of Inspector General, under the direction of Robert Panella; Occupational Safety Health Administration, Buffalo Office, under the direction of Art Dube, and the New York State Department of Labor, Asbestos Control Bureau, under the direction of Maureen Cox.