

Department of Justice

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

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CONTACT: BARBARA BURNS
PHONE: (716) 843-5817
FAX: (716) 551-3051

TWO CORPORATIONS AND NINE INDIVIDUALS - INCLUDING PAST AND PRESENT CITY AND STATE INSPECTION OFFICIALS - INDICTED ON CHARGES RELATED TO KENSINGTON TOWERS PROJECT

BUFFALO, N.Y.– U.S. Attorney William J. Hochul, Jr. announced today that a federal grand jury has returned a 23-count Indictment charging two companies and nine individuals with various federal felony charges relating to the asbestos abatement project conducted at the Kensington Towers apartment complex, 1827 Fillmore Avenue, Buffalo, New York. The companies charged with criminal violations are identified as Johnson Contracting of WNY, Inc. (Johnson Contracting) and JMD Environmental, Inc. (JMD). The individual defendants include Ernest Johnson, 39, and Rai Johnson, 32, both from Buffalo, NY and the President and Supervisor of Johnson Contracting (respectively); Evan Harnden, 42, a supervisor of JMD and Brian Scott, 31, JMD project monitor, both from North Tonawanda; and Henry Hawkins, 41, of Buffalo, NY and Chris Coseglia, 25, of Niagara Falls, NY; also project monitors of JMD.

The remaining defendants consist of current and former public officials responsible for certifying the project's compliance with applicable asbestos removal laws and regulations. Charged in the Indictment are Donald Grzebielucha, 56, and William Manuszewski, 57, both of Buffalo, NY, City of Buffalo Building Inspectors during the abatement project, and Theodore Lehmann, 65, of Kenmore, NY, an Inspector with the New York State Department of Labor, Asbestos Control Bureau.

Each of the 23 federal charges carry a maximum penalty of five years in prison, a fine of \$250,000, or both.

Assistant U.S. Attorney Aaron J. Mango, who is responsible for the trial of the case, stated that the Indictment recognizes the federal Clean Air Act, along with the Environmental Protection Agency (EPA), and other federal and state agencies, as closely

regulating the removal of asbestos. The reasons for the law and regulations include that asbestos is a known human carcinogen known to cause a wide range of life threatening illnesses, including mesothelioma and asbestosis.

In June of 2009, Johnson Contracting was awarded a sub-contract to conduct the asbestos abatement project at Kensington Towers, a six-building complex owned by the Buffalo Municipal Housing Authority, located on the East side of Buffalo. In an environmental survey conducted before the commencement of the abatement project, it was estimated that each building at Kensington Towers contained in excess of 63,000 square feet of hazardous asbestos-containing material.

The Indictment alleges that from June 2009 to January 2010, defendants Johnson Contracting, Ernest Johnson, and Rai Johnson performed and supervised the stripping and removal of asbestos-containing material at the Kensington Towers. In Count 1, these defendants are accused of conspiring to violate the Clean Air Act and defrauding the United States, by (among other things) instructing workers to dump asbestos-containing debris down holes cut through the floors at the buildings, failing to wet the asbestos during removal operations, and instructing workers to leave asbestos-containing material in the buildings knowing that the buildings were intended for demolition. Counts 2 through 7 of the Indictment charge these defendants with substantive violations of the Clean Air Act for the above conduct.

In the same time period, defendants JMD, Harnden, Hawkins, Coseglia, and Scott, agreed to perform as a sub-contract of the abatement project the air sampling and project monitoring at Kensington Towers. Count 8 of the Indictment alleges that these defendants conspired to violate the Clean Air Act and to defraud the United States by (among other things) by failing to conduct proper air sampling, and by creating false visual inspection reports certifying that all asbestos had been removed from the buildings. Counts 9 through 14 of the Indictment charge these defendants with substantive violations of the Clean Air Act based on their roles as project monitors during the final visual inspection process at the buildings. Counts 15 through 17 charge defendants JMD and Hawkins with making and using false documents during the course of the asbestos abatement activities.

City of Buffalo Building Inspectors Donald Grzebielucha and William Manuszewski are charged in Counts 18 (defendant Grzebielucha) through 22 (defendant Manuszewski in Counts 19-22), with making and using false final inspection reports relating to all six of the buildings at Kensington Towers. The defendants specifically certified in the final inspection reports that all asbestos had been removed from the buildings, when in fact, the defendants knew that all asbestos had not been so removed.

Finally, Count 23 of the Indictment charges defendant Lehmann, an Inspector employed with the New York State Department of Labor, Asbestos Control Bureau, with concealing the improper asbestos abatement activities that were occurring at Kensington

Towers.

“The nation’s environmental laws are intended to protect not only people who live and work near abatement sites, but those employed in the abatement industry itself,” said U.S. Attorney Hochul. “In this case, the Kensington Towers complex is in close proximity to a city neighborhood where people live as well as a hospital, a school and a park. This Office, along with its law enforcement partners, will continue to enforce laws designed to ensure the safety of all.”

“Exposure to asbestos can be fatal. Its unsafe disposal endangers human health and can seriously harm the environment,” said William V. Lometti, Special Agent in Charge of EPA’s Criminal Investigation Division in New York. “The defendants are charged with conspiring to illegally allow large amounts of asbestos to be removed unsafely in an attempt to cut costs. Anyone who tries to save money by breaking the law will be vigorously prosecuted.”

“This is a multi-agency investigation, and is a prime example of how working together with our state and federal partners ensures the safety of not only the Kensington Towers neighborhood but all Western New York communities,” said Christopher M. Piehota, Special Agent in Charge of the Federal Bureau of Investigation. “The United States government takes very seriously the health and welfare of our citizens with regard to environmental safety.”

The Indictment is the culmination of an investigation on the part of Special Agents of the U.S. Environmental Protection Agency - Criminal Investigation Division, under the direction of Special Agent-In-Charge, William V. Lometti; Special Agents of the Federal Bureau of Investigation, under the direction of Special Agent-In-Charge Christopher M. Piehota; Special Agents of the U.S. Department of Housing and Urban Development - Office of Inspector General, under the direction of Special Agent-In-Charge Rene Febles; and Investigators of the New York State Department of Environmental Conservation Police, BECI, under the direction of Captain David Bennett. Additional assistance was provided by the New York State Department of Labor, Asbestos Control Bureau.

The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

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