

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 07-13
)	(Enforcement)
RAY F. LANDERS, individually, and)	
EQUIPPING THE SAINTS MINISTRY)	
INTERNATIONAL, an Illinois corp.,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List


PLEASE TAKE NOTICE that on April 21, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, COMPLAINANT'S CIVIL PENALTY REQUEST, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

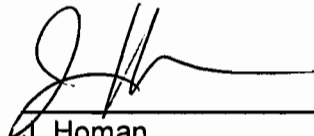
BY: 

J. Homan
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: April 21, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on April 21, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and COMPLAINANT'S CIVIL PENALTY REQUEST upon the persons listed on the Service List.



J. Homan
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Edmond H. Rees
Attorney at Law
128 S. Broad St.
P.O. Box 566
Carlinville, IL 62626

Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
Springfield, IL 62794

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<u>ex rel.</u> LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 07-13
)	
RAY F. LANDERS, individually, and EQUIPPING)	
THE SAINTS MINISTRY INTERNATIONAL, an)	
Illinois corporation,)	
)	
Respondents.)	

COMPLAINANT'S CIVIL PENALTY REQUEST

The Complainant, PEOPLE OF THE STATE OF ILLINOIS, ex rel. LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 33(c) of the Act, 415 ILCS 5/33(c), and Section 42(h) of the Act, 415 ILCS 5/42(h), presents Complainant's Civil Penalty Request.

INTRODUCTION

On November 18, 2010, the Illinois Pollution Control Board entered an Order granting Complainant's Motion for Summary Judgment against Respondent Equipping the Saints Ministry International (ESMI). It is now appropriate for the Board to impose a civil penalty against that Respondent. Section 33(c) of the Environmental Protection Act (the "Act"), 415 ILCS 5/33(c), and Section 42(h) of the Act, 415 ILCS 5/42(h), provide some statutory guidelines for the Board to consider in imposing civil penalties in environmental enforcement cases. Based upon these provisions and the facts of this case, Complainant requests the Boards to impose a \$10,000 civil penalty upon Respondent.

The undisputed facts may be summarized as follows: On or before January 14, 2005, ESMI began demolition of a structure formerly known as the "Auburn Bowling Alley," located at

1229 West Jackson Street, Auburn, Sangamon County, Illinois. No written notification was filed with the Agency prior to the commencement of the demolition. There are businesses and some residences nearby. There were also occupied residential houses in the neighborhood.

ARGUMENT

The Board has broad discretionary powers to assess civil penalties under the statutory authority vested by the Act, *Southern Illinois Asphalt Company v. Pollution Control Board*, 60 Ill.2d 104, 326 N.E.2d 406 (1975). Courts have traditionally upheld the imposition of civil penalties where it will "aid in the enforcement of the Act," but not where it is shown to be merely "punitive." *Southern Illinois Asphalt Company*, 3226 N.E.2d at 412; see also, *City of Monmouth v. Pollution Control Board*, 57 Ill.2d 482, 313 N.E.2d at 161 (1974) (punitive considerations for civil penalties are secondary). Amendments to Section 33 of the Act, 415 ILCS 5/33 (2008) and Section 42 of the Act, 415 ILCS 5/42 (2008), all of which were subsequent to the aforementioned cases and all of which increased the penalty amounts subsequent to the aforementioned cases, make it clear that the Board has the power and authority to assess a penalty in this matter.

In the last thirty or so years of enforcement under the Act, civil penalties assessed by the Board or Illinois courts have fallen along a continuum. On one side, lower penalties have been assessed depending upon the nature of the violation or extent of alleged pollution. Technical or paperwork violations have frequently fallen in this category. See *Park Crematory, Inc. v. Pollution Control Board*, 201 Ill.Dec. 931, 637 N.E.2d 520 (1st Dist. 1994); *Trilla Steel Drum Corporation v. Pollution Control Board*, 180 Ill.App.3d 1010, 536 N.E.2d 788 (1st Dist. 1989). Similarly, the inadvertence of the Respondent, *Southern Illinois Asphalt Company*, *supra*, the good faith efforts of a Respondent to bring about compliance prior to the filing of a complaint, *Park Crematory, Inc.*, *supra*; *Bressler Ice Cream Company v. Pollution Control*

Board, 21 Ill.App.3d 560, 315 N.E.2d 619 (1st Dist. 1974), and lack of any economic benefit from noncompliance, *Park Crematory, Inc., supra*, have figured prominently in cases involving low or nominal civil penalties. Again, amendments to Section 33 of the Act, 415 ILCS 5/33 (2008) and Section 42 of the Act, 415 ILCS 5/42 (2008), all of which were subsequent to the aforementioned cases and all of which increased the penalty amounts subsequent to the aforementioned cases, make it clear that the Board has the power and authority to assess a penalty in this matter.

At the other end of the scale, some enforcement actions brought under the authority of the Act have resulted in substantial monetary penalties. In these cases, circumstances showing the unreasonableness of the Respondent's conduct or its lack of good faith, *ESG Watts, Inc., v. Pollution Control Board*, 282 Ill.App.3d 43, 668 N.E.2d 1015 (4th Dist 1996), the seriousness and lengthy duration attributed to the violations, *People v. John Prior and Industrial Salvage, Inc.*, PCB No. 97-111 (November 20, 1997); *People v. Panhandle Eastern Pipeline Company*, PCB No. 99-191 (November 15, 2001), the need for deterrence, *People v. Waste Hauling Landfill, Inc., and Waste Hauling, Inc.*, PCB No. 95-91 (May 21, 1998), or the accrual of a significant economic benefit, *Panhandle, supra*, illustrate important considerations in the penalty determination.

There is no definitive method for designating an appropriate penalty. *People v. Bernice Kershaw and Darwin Dale Kershaw*, PCB No. 92-164 (April 20, 1995); *People v. ESG Watts, Inc.*, PCB No. 96-233 (February 5, 1998). Although the violation in this case is failure to file a required notification, Complainant believes it is more serious than a mere "paperwork" violation. In this instance, it is not the Respondent's first violation of the Act, and the Respondent had been actually informed of the existence of the NESHAP by IEPA personnel prior to the commencement of the demolition at the site. Furthermore, compliance with the requirements of

the Act was extremely simple - file the required notification in a timely manner, along with the fee.

Please also see: *People of the State of Illinois v. Atlas Dismantling Corporation and Cary Corners Partnership*, PCB 96-267 (August 15, 1996 - violation of 415 ILCS 5/9.1(d) by failing to properly provide notification of asbestos demolition, penalty of \$1,500 against Atlas and \$5,200 against Corners), *People of the State of Illinois v. R. Frietsch and Company, Inc.*, PCB 96-262 (May 1, 1997 - violation of 415 ILCS 5/9.1(d)(1) and 40 CFR 61.145(b) by failing to provide notification of asbestos renovation or demolition activity, penalty of \$8,000), *People of the State of Illinois v. Steve Kulovsek d/b/a WSH Management Group and d/b/a Kulovsek Excavating*, PCB 96-136 (June 5, 1997 - violation of 415 ILCS 5/9.1(d) and 40 CFR 61.145(b) by failing to provide notification of asbestos demolition or renovation activity, penalty of \$5,000), and *People of the State of Illinois v. Frank Levato*, PCB 97-237 (October 2, 1997, violation of 415 ILCS 5/9.1(d) and 40 CFR 61.145(b) by failing to provide notification of asbestos demolition or renovation activity, penalty of \$4,000).

I. Changes in the Law Affecting Civil Penalties Occurred in 1990.

Two significant changes in statutory law occurred in 1990; and, these changes mean that cases decided prior to this time have little value in determining what an appropriate penalty should be as to cases arising after the change in the law. Public Act 86-1014, Section 1, effective July 1, 1990, in subsection (a) of 415 ILCS 5/42 increased the maximum civil penalty from \$10,000.00 to \$50,000.00 for a violation of the Act; and, it increased the maximum daily penalty from \$1,000.00 per day to \$10,000.00 per day for each and every day that a violation persisted. The Illinois Legislature clearly expressed the legislative intent for higher penalties in environmental cases with the passage of Public Act 86-1014. A 500 percent increase in the maximum penalty and a 1000 percent increase in the daily penalty means that cases decided

before the enactment of Public Act 86-1014, that is, before July 1990, have little value in determining penalty amounts today.

Public Act 86-1363, Art. 2, Section 2002, effective September 7, 1990 added subsection (h) to 415 ILCS 5/42. Subsection (h) deals with factors in aggravation or mitigation of the penalty amount. These provisions make it clear that the Legislature has expressed its intent that civil penalties are to be imposed for violations of the Act.

II. Section (c): Impact on the Public Resulting from Non-compliance with the Act.

Although Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), and Section 42(h) of the Act, 415 ILCS 5/42(h), mentions the "Board" (the "Illinois Pollution Control Board"), regarding factors the Board should take into consideration, Courts also consider the statutory provisions of Section 33(c) and Section 42(h).

Section 33(c) provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these Section 33(c) factors, the Complainant states the following:

1. Human health and the environment were threatened by the Respondent's violations of the Act. The Respondent's failure to notify prior to commencement of the

demolition of the building impeded the Agency's ability to protect the environment.

2. There was no measurable social or economic benefit to the Respondent's activities at this site.

3. The demolition of this facility is not suitable for the area when the law is ignored.

4. Compliance with the Act in protecting the environment by providing the required notice prior to commencement of renovation/demolition activities was both technically practicable and economically reasonable.

5. Respondent no longer owns this site.

II. Consideration of Section 42(h) factors.

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection I of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an

enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to the Section 42(h) factors, Complainant states as follows:

1. The Respondent violated the Act before January 14, 2005, but after June 4, 2004.
2. Respondent did not return the site to compliance. A notification was submitted in approximately July 2005, by the new owner, unrelated to Equipping the Saints Ministry, International, Inc.
3. Respondent has incurred an economic benefit in that the Respondent did not submit the necessary NESHAP notification and did not pay the affiliated fee.
4. Complainant submits, based upon the specific facts of this matter, that a penalty of ten thousand dollars (\$10,000) will serve to deter further violations of the Act by Respondent and by others similarly situated, and to encourage Respondent and others similarly situated to voluntarily comply with the Act in the future.
5. Respondent has been previously adjudicated to be in violation of the Act in a Board proceeding on February 17, 2005 (PCB AC 2004-031) and by the circuit court (Macoupin County Circuit Court #2007-CF-150). As of January 1, 2011, the rules of evidence as applied in Illinois judicial and administrative proceedings are codified in Illinois Rules of Evidence. Rule 802 prohibits the admission of hearsay ("except as provided by these rules, by other rules prescribed by the Supreme Court, or by statutes as provided in Rule 101"). Rule 803(22) provides that a judgment of conviction is not excluded by the hearsay rule: "Evidence of a final judgment, entered after a trial or upon a plea of guilty, adjudging a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment...." Records of the Macoupin County Circuit Court regarding the criminal prosecution of ESMI for its felony violation of Section 44(j)(1)(K) of the Act, 415 ILCS

5/44(j)(1)(K), are attached. In that matter, ESMI owned a building located at 402 West Loud Street, Virden, Macoupin County, Illinois. On or before September 23, 2004, renovation/demolition activities commenced at the building. On September 23, 2004, the Illinois EPA conducted an inspection of the building and found suspect dry friable material. Subsequent testing revealed the presence of chrysotile asbestos. Subsequent record review determined that no NESHAP notification had been filed.

6. The Respondent did not self-disclose.

7. A supplemental environmental project is not an issue in this matter.

III. Aggravation of Penalty

In *Park Crematory, Inc., v Pollution Control Board*, 264 Ill.App.3d 498 (1st Dist. 1994), Park Crematory had a permit for one of its incinerators, but did not have a permit for its second incinerator. The *Park Crematory* was a permit violation case, not a pollution violation case. During the on-site inspection, the Illinois EPA inspector did not notice any smoke or odors emanating from the stack of the incinerator. The Court stated:

The facts of this case show that Park is not a polluter, that Park realized almost no economic advantage from its noncompliance, and that Park's owner acted in good faith. Most importantly, Park was not beyond the regulatory awareness of the Agency. The inspections the Agency conducted in 1982 and in 1990 show that it was aware of Park's existence. Park had an operating permit for one of its incinerator units and thereby "became a part of the regulatory program of the Agency and the Agency had data

concerning the company's existence *** and the contaminants which were emitted by the operation." (*Trilla Steel*, 180 Ill.App.3d at 1013, 536 N.E. 2d at 790.)

Id., 264 Ill.App.3d at 504-05. Our case involving Equipping the Saints Ministry International, Inc., differs with *Park Crematory* in many significant matters. *Park Crematory* was not an air pollution case; this case involving ESMI is an air pollution case. Park was not beyond the regulatory awareness of the Agency; ESMI had not submitted the required NESHAP, specifically to provide the Agency with knowledge of current, ongoing activities that are subject

to the Agency's regulation. Park's owners were said to have operated in good faith; ESMI was recklessly derelict at best, intentionally derelict at worst, in failing to file the notification, despite Agency personnel actually directly informing Mr. Landers of the notification procedure and requirements of the NESHAP during the June 4, 2004, inspection of the site.

In the recent decision of *People of the State of Illinois v. General Waste Services, Inc.*, PCB 07-45 (April 7, 2011), the People alleged violations of Section 9.1(d) and 40 CFR 61.145(c), for improper removal of regulated asbestos containing material and failure to adequately wet that material during removal. The Board considered the factors outlined in Section 33(c) and Section 42 (h) in determining an appropriate penalty. In this matter the Board stated that (1) the degree of injury to health and general welfare of the people was minimal, (2) that renovation is a socially and economically desirable activity, and (3) that the Respondent returned to compliance with the Act and regulations within a day - these factors were considered favorable to the Respondent. The Board stated that the following two factors weighed in favor of the Complainant: (1) improper removal of regulated asbestos containing material is improper in any location, and that (2) wetting regulated asbestos containing material is both technically practicable and economically reasonable. Because the violations alleged occurred over two days, compliance was achieved within one day, any economic benefit accrued to the Respondent was minimal, and that there had been no previously adjudicated violations by the Respondent, the Board felt that there were significant arguments against imposition of a substantial penalty. Specifically noting that there was "... no history of noncompliance and the resulting negative impacts of the violations were minimal, the Board fines [the Respondent] \$10,000." *People v. General Waste Services, Inc., supra*, PCB 07-45, pg. 16.

ESMI initiated a demolition in a populated area without first filing the required notification

with the Illinois EPA, despite the affirmative requirement to file such notification prior to commencing the demolition, and despite IEPA personnel actually speaking with ESMI personnel about this requirement. ESMI has previously adjudicated violations of the Act, in one case for an essentially similar activity. This case is appropriate for the imposition of a substantial civil penalty.

Wherefore, Complainant respectfully requests the Board to impose a civil penalty of \$10,000 against Respondent Equipping the Saints Ministry International, Inc., and for the civil penalty to be paid to the Illinois EPA for deposit into the Environmental Protection Trust Fund.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: _____


J. Homan
Assistant Attorney General

J. Homan
Assistant Attorney General
500 S. Second St.
Springfield, Illinois 62706

Electronic Filing - Received, Clerk's Office, April 21, 2011

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
MACOUPIN COUNTY

THE PEOPLE OF THE STATE OF ILLINOIS,

NEXT GENERATION MINISTRIES, INC., f/k/a
EQUIPPING THE SAINTS MINISTRY INTERNATIONAL,
INC., AN ILLINOIS NOT-FOR-PROFIT CORPORATION

VS.

CASE # 07-CF-150 (COUNT I)
CHARGE IMPROPER REMOVAL OF ASBESTOS
CLASS 4

PROBATION/SUPERVISION/NON-REPORTING SUPERVISION/CONDITIONAL DISCHARGE

On 6-24-10, this cause comes for hearing on defendant's application for probation/supervision/non-reporting supervision/conditional discharge and the court being fully advised in the premises finds that it has jurisdiction of the subject matter hereof and of all parties hereto and that the defendant should be admitted to probation/supervision/non-reporting supervision/conditional discharge. IT IS, THEREFORE, HEREBY ORDERED by the Court that:

- 1. Defendant is hereby placed on: PROBATION SUPERVISION NON-REPORTING SUPERVISION 550/10 or 570/410 PROBATION CONDITIONAL DISCHARGE for a period of 24 MONTHS.
- 2. This is a non-reporting supervision. Unless a Petition To Revoke Defendant's Supervision is filed in this case prior to the date hereinafter listed, defendant's supervision shall terminate on the _____ day of _____, 19____, without further action by the Court, and effective as of said date:
(a) Defendant shall be released and discharged from supervision; and, (b) This case and the charges filed herein shall be dismissed; and,
(c) This cause shall not be considered a conviction against the defendant; and, (d) This cause shall be stricken.
- 3. Defendant shall serve _____ days in confinement at the Macoupin County Jail, Carlinville, Illinois. A mittimus is hereby ordered to be issued for said confinement. See attached Jail Order.
- 4. Defendant shall not violate any criminal statute or ordinance of any jurisdiction.
- 5. Defendant shall not leave the State of Illinois without the consent of the Court or the Probation Department.
- 6. Defendant shall make a report to a Probation Officer of this court, or to such other person or agency as directed by the Probation Officer, at such times as directed by the Probation Officer, but not less than one such report every thirty (30) days. Defendant shall report to the Macoupin County Probation Department, 2nd floor, Macoupin County Jail, Carlinville, IL, phone: 217-854-4411.
- 7. Defendant must permit a Probation Officer to visit him/her at his/her home or elsewhere.
- 8. Defendant shall make restitution in the amount of \$ — 0 — to be paid monthly through the Clerk of the Circuit Court and pay a fine in the amount of \$ 75,000.00 plus costs within 24 months. Defendant shall further pay \$ — 0 — per month for probation fees through the Clerk of the Circuit Court. Defendant shall pay — 0 — surcharge. Clerk directed to forward restitution as follows:
FILED
- 9. Defendant shall not have any firearms or other dangerous weapons in his possession.
- 10. Defendant shall work or pursue a course of study or vocational training.
- 11. Defendant shall keep the Probation Office advised of his/her place of residence and employment at all times, advising the Probation Office within twenty-four (24) hours of any change therein. If placed on home confinement, defendant shall be at said place of residence between _____ p.m. and _____ a.m., each and every night, unless he has the consent of the court or Probation Officer to do otherwise.
- 12. Defendant shall support his/her dependents.
- 13. Defendant shall not possess, use or consume any intoxicating liquor to excess.
- 14. Defendant shall be subject to random drug and/or alcohol testing at the direction of the Probation department or any law enforcement officer and pay costs of same. A positive test or a refusal to take a test is a violation of this order.
- 15. Defendant shall obtain an evaluation and undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism as ordered by the court or as directed by the Probation Department.
- 16. Defendant shall attend the Victim Impact Panel on _____ at _____ p.m. See attached order.
- 17. Defendant shall surrender his/her driver's license to the Probation Department, who shall determine if the defendant may drive during the first 30 days of Probation/Supervision.
- 18. Defendant shall complete _____ hours public service employment within _____ months.
- 19. That at the expiration of the period of Probation/Supervision/Non-reporting Supervision/Conditional Discharge and upon application by Probation Department/defendant, the court shall enter an order discharging defendant as provided by law.
- 20. Other: SEE ATTACHED SUPPLEMENTAL ORDER

JUN 24 2010

Enter: Kenneth R. Jewel
(JUDGE)

This is to certify that I have read the above Order, understand same and agree to fully follow and comply with each and every condition thereof.

Addendum to Probation/Supervision Order
In the event that I test positive on any random drug or alcohol test, and the same has been submitted to the State lab for further testing; I waive my right to live testimony from the State Police Forensic Scientist, and agree to the admission in court of a laboratory report on a hearing on a petition to revoke my probation/supervision so long as the report and the statement attached complies with 725 ILCS 5/15-15.

Signature of Defendant: [Signature]

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
MACOUPIN COUNTY, STATE OF ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS,)
)
) Plaintiff,)
)
) vs.)
)
) NEXT GENERATION MINISTRIES, INC., f/k/a)
) EQUIPPING THE SAINTS MINISTRY)
) INTERNATIONAL, INC., an Illinois Not-for-)
) Profit Corporation,)
)
) Defendant.)

No. 07-CF-150

FILED

JUN 24 2010

Cherie Mathis
Clerk of the Circuit Court
Macoupin County, Illinois

SUPPLEMENTAL COURT ORDER

THIS CAUSE, having come before the Court for hearing on the sentence to be imposed on the guilty plea of Defendant NEXT GENERATION MINISTRIES, INC., f/k/a EQUIPPING THE SAINTS MINISTRY INTERNATIONAL, INC., an Illinois Not-for-Profit Corporation, to Count I of the Indictment in the above-captioned cause, on the charge of IMPROPER REMOVAL OF ASBESTOS in violation of subsection (c) of Section 61.145 of Title 40 of the Code of Federal Regulations, as incorporated by subsection (b) of Section 9.1 of the Illinois Environmental Protection Act, 415 ILCS 5/9.1(b), a violation of subsection (j)(1)(K) of Section 44 of the Illinois Environmental Protection Act, 415 ILCS 5/44(j)(1)(K), a Class 4 Felony, and having considered the Probation Office's presentence investigation report, and having been informed of the sentencing recommendation agreement of the parties hereto, and being otherwise fully advised in the premises, **THE COURT HEREBY FINDS THAT:**

1. On May 30, 2002, Articles of Incorporation were filed with the Illinois Secretary of State, incorporating Defendant EQUIPPING THE SAINTS MINISTRY INTERNATIONAL, INC. under the provisions of the Illinois Not-For-Profit Corporation Act of 1986, a copy of which said Articles of Incorporation are attached hereto and incorporated by reference herein as Attachment A;

2. On February 5, 2009, Articles of Amendment under the General Not-For-Profit Corporation Act were filed with the Illinois Secretary of State changing the name of Defendant EQUIPPING THE SAINTS MINISTRY INTERNATIONAL, INC. to NEXT GENERATION MINISTRIES, INC. (Attachment A);

3. On October 9, 2009, a Certificate of Dissolution of Domestic Corporation, Not-for-Profit, was issued by the Illinois Secretary of State, involuntarily dissolving Defendant NEXT GENERATION MINISTRIES, INC. for failure to file an annual report for the year 2009 (Attachment A);

4. On March 17, 2010, according to the Illinois Secretary of State's current Corporate File Report for Defendant, a true and correct copy of which is attached hereto and incorporated by reference herein, marked as Attachment B, an Annual Report and Application for Reinstatement was filed on Defendant's behalf, retroactively reinstating Defendant to active status;

5. Billie Landers is, and always has been, the Registered Agent and President of Defendant NEXT GENERATION MINISTRIES, INC., f/k/a EQUIPPING THE SAINTS MINISTRY INTERNATIONAL, INC., as shown by the Defendant corporation's Annual Reports filed with the Illinois Secretary of State for the years 2003 through 2008, inclusive, authenticated copies of which said Annual Reports are attached hereto and incorporated by reference herein, marked as Attachment C;

6. On December 3, 2008, appearing by counsel and through its vice-President, Raymond F. Landers, Defendant pled guilty to Count I in the above-captioned action;

7. By Special Warranty Deed dated June 11, 2002, a true and correct copy of which is attached hereto and incorporated by reference herein, marked as Attachment D, Defendant corporation took title to certain real estate located in the County of Macoupin, commonly known as 402 West Loud Street, in the City of Virden, Illinois, the renovation and demolition activity conducted at which being the subject of the charge to which Defendant pled guilty;

8. By Warranty Deed dated March 26, 2009, a copy of which is attached hereto and incorporated by reference herein as Attachment E, Defendant transferred title to the 402 West Loud Street property to a related corporation, NEXT GENERATION MINISTRIES INT'L., INC., also an Illinois Not-For-Profit Corporation; and that

10. The parties hereto have entered into an agreement to recommend a sentencing disposition herein which the Court finds to be just, fair and appropriate.

IT IS THEREFORE HEREBY ORDERED THAT:

1. Judgment be and hereby is entered on Defendant's plea of guilty to the charge of IMPROPER REMOVAL OF ASBESTOS in violation of subsection (c) of Section 61.145 of Title 40 of the Code of Federal Regulations, as incorporated by subsection (b) of Section 9.1 of the Illinois Environmental Protection Act, 415 ILCS 5/9.1(b), a violation of subsection (j)(1)(K) of Section 44 of the Illinois Environmental Protection Act, 415 ILCS 5/44(j)(1)(K), a Class 4 Felony.

2. Defendant shall be admitted to a term of conditional discharge for twenty-four (24) months, subject to all standard statutory terms and conditions;
3. Defendant shall not violate the criminal statutes and laws of any jurisdiction;
4. Defendant shall pay a fine of \$75,000.00, plus court costs;
5. As a further condition of Defendant's conditional discharge, and by agreement of the parties hereto, Defendant shall, within the first 120 days of the period of conditional discharge, reacquire title to the 402 West Loud Street property and tender the same to the City of Virden, free of charge and free and clear of all liens and other encumbrances, for use as public park, dedicated to the memory of Wayne Molen, and other than the use thereof as a park so dedicated, said transfer shall be unconditional, subject to the acceptance thereof by the City of Virden.
6. If for any reason the City of Virden does not accept the transfer of the 402 West Loud Street property for use as a public park, as set forth above, then, and in that event, Defendant shall, in the alternative, acquire and retain title to said property, free and clear of all liens and other encumbrances, and shall hold the same in a constructive or resulting trust for the benefit of the People, who may execute and levy thereon and sell the same by a Sheriff's sale or other appropriate means and, after payment of the reasonable costs thereof, apply the net proceeds of said sale toward the satisfaction of Defendant's fine and costs, the excess proceeds, if any, to be returned to Defendant.

Entered: June 24, 2010

Kenneth R. Davis
Judge of the Circuit Court

I understand these conditions and acknowledge receipt of this Order.

[Signature]
Defendant

Name: _____

Attorney for: _____

Address: _____

City: _____

Telephone: _____