

Before the Iowa Department of Public Health

<p>IN THE MATTER OF</p> <p>Robert Grafton Sr. R.E.L. Insulation Co. 2028 Lay St Des Moines, IA 50317</p>	<p>Case Number: 2012-06-02</p> <p>ORDER IMPOSING CIVIL PENALTY</p>
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Pursuant to the provisions of Iowa Code Sections 135.105A and Iowa Administrative Code (IAC) 641--70.10(1), the Iowa Department of Public Health (Department) is imposing a civil penalty of \$420.

Iowa Code Section 135.105A(5) states: "The department shall adopt rules regarding minimum requirements for training programs, certification, work practice standards, and suspension and revocation requirements, and shall implement the training and certification programs."

Iowa Administrative Code section 641--70.10(1) states: "When the department finds that the applicant, certified lead professional, certified elevated blood lead (EBL) inspection agency, or certified firm has committed any of the following acts, the department may . . . suspend or revoke a certification, . . . may impose a civil penalty."

d. Obtaining certification through fraudulent representation.

f. Fraudulently obtaining certification and engaging in any lead-based paint activities requiring certification.

j. Obtained certification through misrepresentation of certification requirements or related documents pertaining to education, training, professional registration, or experience.

p. Knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of lead professional activities or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

r. Falsified reports and records required by this chapter.

y. Engaged in any conduct that subverts or attempts to subvert a department investigation.

ab. Been convicted of a felony or misdemeanor related to lead professional activities or the conviction of any felony or misdemeanor that would affect the ability of the firm or individual to perform lead professional activities. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ac. Unethical conduct. This includes, but is not limited to, the following:

(6) Habitual intoxication or addiction to drugs.

3. Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

On November 16, 2010, the Department received your application for initial certification as a lead safe renovator. In this application, you answered “no” to the following required certification question: “Have you ever been convicted of, found guilty of, or entered a plea of no contest to a felony or misdemeanor crime? (other than minor traffic violations with fines under \$100.00). You must answer “yes” even if the matter was expunged from the record.”

On March 30, 2012, the Department received your application to renew your certification as a lead safe renovator. In this application, indicated that something had changed since the last time you answered the certification question. You then went on to answer “yes” to the following required certification question: “Have you ever been convicted of, found guilty of, or entered a plea of no contest to a felony or misdemeanor crime? (other than minor traffic violations with fines under \$100.00). You must answer “yes” even if the matter was expunged from the record.”

Along with this renewal application you provided a handwritten note that described one controlled substance conviction from 1995.

On April 27, 2012, the Department received your initial application to upgrade your certification to a lead abatement contractor. In this application, you answered “yes” to the following required certification question: “Have you ever been convicted of, found guilty of, or entered a plea of no contest to a felony or misdemeanor crime? (other than minor traffic violations with fines under \$100.00). You must answer “yes” even if the matter was expunged from the record.” You did not provide any additional information with this application.

The Department discovered that you have also been convicted of the following crimes:

- 1993 – Failure to have valid license
- 1993 – Operative vehicle with suspended license
- 1995 – Controlled substance violation – felony
- 1995 – Failure to affix tax stamp – felony
- 2003 – Interference with official acts
- 2007 – 3rd degree harassment
- 2011 – Disorderly conduct fighting

You failed to provide information regarding the crimes committed from 1993 to 2007 in your initial application received November 16, 2010. You provided incomplete information regarding your crimes and the additional crime committed in 2011 in your renewal and initial applications received March 30, 2012 and April 27, 2012, respectively.

On July 11, 2012, the Department sent you a Notice of Violation and Proposed Penalty. You signed for this letter on July 20, 2012. You did not respond in writing to the Notice of Violation and Proposed Penalty. **Therefore, the Department is imposing a civil penalty of \$420.**

You have the right to request a hearing concerning this order imposing civil penalty. A request for a hearing must be submitted in writing to the Department by certified mail, return receipt requested, within twenty (20) days of receipt of this Order Imposing Civil Penalty. The written request must be submitted to:

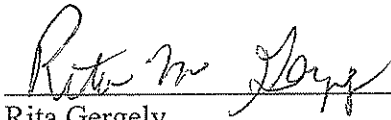
Rita Gergely
Iowa Department of Public Health
Bureau of Lead Poisoning Prevention

321 East 12th Street
Des Moines, Iowa 50309.

If the request is made within the twenty (20) day time limit, the proposed action is suspended pending the outcome of the hearing.

If no request for a hearing is received within the twenty (20) day time period, the civil penalty proposed herein shall become effective and shall be final agency action.

If you fail to pay any civil penalty subsequently determined by the department, unless compromised, remitted, or mitigated, the fee shall be collected by civil action, pursuant to Iowa Code section 135.105A.



Rita Gergely
Executive Officer 2
Bureau of Lead Poisoning Prevention
(515) 242-6340



Date