Before the Iowa Department of Public Health

| IN THE MATTER OF | Case Number: 2010-01-05 |
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| Mr. Dan King PO Box 622 Ames IA 50010 | NOTICE OF VIOLATION AND PROPOSED PENALTY |

Pursuant to the provisions of Iowa Code Sections 135.105A and Iowa Administrative Code (IAC) 641—70.10(5), the Iowa Department of Public Health (Department) is issuing a notice that you have violated Iowa Code Section 135.105A, Iowa Administrative Code section 641—70.6(6) and is therefore proposing to impose a civil penalty in the amount of \$50.

Iowa Code Section 135.105A(3) states: "All lead abatement and lead inspections; and lead inspector, lead abater, and lead-safe renovation training programs; and renovations on target housing or a child-occupied facility, shall be performed and conducted in accordance with work practice standards established by the department"

The department may issue a civil penalty when it finds that the contractor has committed any of the following acts listed in Iowa Administrative Code 641—70.10(1):

- "a. Failure or refusal to comply with any requirements of this chapter.
- b. Failure or refusal to establish, maintain, provide, copy, or permit access to records or reports as required by rules 70.3(135) to 70.7(135)."

Iowa Administrative Code 641 section 70.6(6) states: "A certified lead abatement contractor or certified lead abatement worker must conduct lead abatement according to the following standards. Lead abatement shall be conducted only by a certified lead abatement contractor or a certified lead abatement worker.

p. The certified lead abatement contractor shall maintain all reports and plans required in this subrule for a minimum of three years.

On November 6, 2009, Kevin Officer of the Department you to perform a spot check of the lead abatement report for the lead abatement project that your company completed at 1331 14th Street in Des Moines. On December 8, 2009, you informed the Department that you understood that Iowa Administrative Code 641 section 70.6(6) requires you to keep a lead abatement report for at least three years, but that you could not find this report.

This action violates Iowa Code section 135.105A, Iowa Administrative Code section 641—70.6(6). The Department is authorized to impose a civil penalty against you in the amount of \$5,000. The Department has considered the mitigating circumstances and is proposing to impose a civil penalty of \$50. Within twenty (20) days of this Notice of Violation, you must either pay this civil penalty of \$50 or submit a written answer to this Notice of Violation.

If you choose to answer this notice of violation, your written answer must state any facts, explanations, and arguments denying the violation or must demonstrate any extenuating circumstances, error in the notice of violation, or other reason why the civil penalty should not be imposed. You may also request remission or mitigation of the penalty. The payment of the civil penalty or your written answer to this Notice of Violation must submitted in writing to the Department by certified mail, return receipt requested, within twenty (20) days of this Notice of Violation to:

> Rita Gergely Iowa Department of Public Health Bureau of Lead Poisoning Prevention 321 East 12th Street Des Moines, Iowa 50309

If you fail to answer this notice of violation within the twenty (20) day time period, an order may be issued imposing the civil penalty in the amount set forth in this notice.

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.

Chief

Bureau of Lead Poisoning Prevention

(515) 242-6340

1/20/2013 Date