



**FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.**

## **Industrial Hygiene Compliance Audit**

### **Finding of Noncompliance Regulatory Misconduct and Possible Criminal Activities**

**at an  
Identified Illegal Drug Laboratory**

**Located at:  
4893 SOUTH JOHNSON STREET  
DENVER, COLORADO**

Prepared by:

**FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.**  
185 Bounty Hunter's Lane  
Bailey, CO 80421



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## EXECUTIVE SUMMARY

Forensic Applications Consulting Technologies, Inc. (FACTs) was contracted by the current occupant of 4893 South Johnson Street, Denver, Colorado to perform a regulatory compliance audit which included the review of several documents prepared for the property regarding an identified illegal drug laboratory.

FACTs also performed a site visit to the property and performed a visual inspection and legitimate Industrial Hygiene sampling. FACTs was addressing concerns by the occupant that she and her family had been placed in harm's way as a result of moving into a contaminated property.

Upon review of the documents and site visit, FACTs finds the following:

### **General Conclusions**

- An illegal drug laboratory was discovered at the property by law enforcement.
- For this project, virtually no aspect of State Regulation or State statutes has been followed.
- The property remains heavily contaminated.
- Although FACTs collected several samples at the property, to control costs, only two samples were submitted for analysis of methamphetamine. Those samples confirm the property still contains methamphetamine at concentrations greater than permitted by regulation:
  - The duct system interior contains *at least* 2.04 µg/100cm<sup>2</sup>
  - The garage surfaces contain *at least* 2.45 µg/100cm<sup>2</sup>
- The property remains in a state of profound non-compliance.
- No legitimate Preliminary Assessment, as required by regulation, was performed at this property, following discovery.
- No legitimate cleaning activities occurred at the property, as required by regulation.
- No legitimate post decontamination clearance activities, as required by regulations, occurred at the property.
- Since both companies involved with this project have an history of making false representations and multiple willful violations of State regulations, FACTs recommends that the issue be brought to the office of the District Attorney for consideration of criminal investigation.

### **Preliminary Assessment**

- The document identified by Gobble-Hayes Partners Inc. (GHP) as a "Preliminary Assessment" is fatally flawed,



- The document identified as a Preliminary Assessment was not prepared by an individual known to be capable or authorized under regulation to perform such work.
- The document identified as a Preliminary Assessment exhibited gross technical incompetence in regulatory compliance and illegal drug laboratory assessment.
- The organization preparing the document as a Preliminary Assessment has historically demonstrated gross and profound technical incompetence and has been shown to historically fabricated information in its reports and falsified information in their reports.
- The document identified as a Preliminary Assessment entirely failed to comply with the following mandatory elements which constitute a valid Preliminary Assessment.
  - Colorado Board of Health Regulations 6 CCR 1014-3
    - Section §4.1 (three violations)
    - Section §4.2
    - Section §4.3
    - Section §4.4
    - Section §4.5
    - Section §4.6
    - Section §4.7
    - Section §4.8
    - Section §4.9
    - Section §4.10
    - Section §4.11
    - Section §4.12
    - Section §4.13 (de minimis violation)
    - Section §8.11
    - Section §8.12
    - Section §8.13
    - Section §8.14
    - Section §8.20
    - Section §8.21
    - Section §8.22
    - Section §8.23

## ***Decontamination***

- The decontamination process (if indeed, anything at all in the property was actually cleaned), entirely failed to comply with State regulations, or standard industry practices.
- Based on our first hand observations, nothing in the property was actually given even the most rudimentary wipe down, or cleaning, or decontamination.
- FACTs identified failure to comply with the following regulatory requirements:
  - Section §4.0
  - Section §5.0
  - Paragraph §5.2
  - Paragraph §5.3
  - Paragraph §5.4
  - Paragraph §5.5
  - Paragraph §5.8



## **Post Decontamination Clearance**

- The document identified by QUEST Environmental Services (QES) as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” is fatally flawed.
- The document identified as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” was not prepared by an individual known to be capable or authorized under regulation to perform such work.
- The document identified as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” was prepared by an individual known to have a history of regulatory malfeasance, non-compliance and regulatory violations.
- The document identified as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” was not prepared by an individual known to be capable or authorized under regulation to perform such work.
- The document identified as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” exhibited gross technical incompetence in regulatory compliance and illegal drug laboratory assessment.
- The organization which prepared the document identified as a “Post-Mitigation Clearance Assessment Inspections and Sampling Surveys” has historically demonstrated gross and profound technical incompetence in Industrial Hygiene matters, and has been shown to historically to fabricate and falsify information in its reports.
- The document identified as a Post – Mitigation Clearance Assessment entirely failed to comply with the following mandatory elements that constitute valid post mitigation sampling and clearance, as well as other State statutes:
  - Failure to Comply With Section 8.0
  - Failure to Comply With Paragraph §8.2
  - Failure to Comply With Paragraph §8.3
  - Failure to Comply With Paragraph §8.4
  - Failure to Comply With Paragraph §8.8
  - Failure to Comply With Paragraph §8.14
  - Failure to Comply With Paragraph §8.15
  - Failure to Comply With Paragraph §8.16
  - Failure to Comply With Paragraph §8.18
  - Failure to Comply With Paragraph §8.20
  - Failure to Comply With Paragraph §8.21
  - Failure to Clear the Ventilation System (*viz*: Section 6.0)
  - Failure to Collect Lawful Post Mitigation Clearance Samples
  - Failure To Comply with Appendix A -Test Mandatory Hypothesis
  - Failure To Comply with Appendix A -Failure to Collect Bias Samples
  - Failure To Comply with Appendix A -Collection of Samples From Prohibited Surfaces
  - Failure To Comply with Appendix A -Failure to Collect Sufficient Surface Areas
  - Failure To Comply with Appendix A -Failure to Submit Field Blanks
  - Failure to Comply With Paragraph 8.22 (Fraudulent Statements)
  - Failure to Comply With Paragraph 8.23
  - Colorado Criminal Code §18-5-114 – Fraud; Offering a false instrument for recording
  - Colorado Criminal Code §18-5-113. Criminal impersonation



- The property remains heavily contaminated with methamphetamine.
- Post mitigation activities were conducted by an individual with an history of making false claims and performing grossly incompetent work.
- Post mitigation activities were conducted by an individual who has falsely represented himself as an Industrial Hygienist, but who in the past, has insisted that he is NOT an industrial Hygienist.
- None of the post mitigation samples were collected in a manner that was compliant with Colorado's mandatory regulations.
- The property remains in a state of overt non-compliance.
- FACTs recommends that the Governing Body prepare a list of properties assessed by this contractor for independent review, since the deficiencies identified here are an hallmark of this individual's work.
- FACTs recommends that the Governing Body forward this critical review to the District Attorney's office to determine if the activities rise to the standard of criminal fraud.

The following discussion provides the rationale for our conclusions and opinions.

## REVIEW OF THE PRELIMINARY ASSESSMENT

According to Colorado State Regulation 6-CCR 1014-3, following the discovery of an illegal drug lab as that term is defined in CRS §25-18.5-101, (which occurred when Law Enforcement Personnel identified an illegal methamphetamine cook at the property), and following “notification,” (which occurred when the property owner received such information of the law enforcement action) the property must either be demolished or a “Preliminary Assessment” must be conducted at that property to characterize extant contamination (if any), and to direct appropriate decontamination procedures (if any). Pursuant to these regulations, information obtained in the Preliminary Assessment, must be used as the basis for remediation, and must be the basis for any final clearance sampling.

The Preliminary Assessment must be conducted according to specified requirements<sup>1</sup> and must contain specific elements. Failure to comply with the regulations will invalidate the PA. In the following section, we have presented just a small portion of the errors, omissions, violations and fatal flaws associated with the Gobble-Hayes (GHP) report. The following list of errors is not exhaustive, or all inclusive, but is sufficient to demonstrate the entire report was prepared without regard to mandatory State regulations.

GHP has historically exhibited gross technical incompetence in the evaluation and assessment in illegal drug laboratories. In the past, GHP has demonstrated gross technical incompetence in the assessment and regulatory compliance of illegal drug

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<sup>1</sup> Section 4 of 6 CCR 1014-3



laboratories. For example in the matter of West 76<sup>th</sup> Ave., Westminster, Colorado<sup>2</sup>, GHP prepared a document which it identified as a Preliminary Assessment. That document, which entirely failed to meet state regulations, contained twenty two (22) fatal flaws, errors, omission and violations of State regulation. In that report, GHP makes the following bizarre statement:

Methamphetamine Contamination Disclosure is now required due to the passage of Assembly Bill 1025 (Methamphetamine Contaminated Property Cleanup Act of 2005). It is now required for a property owner to disclose in writing to a prospective buyer or tenant if local health officials have issued an order prohibiting the use or occupancy of a property contaminated by methamphetamine laboratory activity. The owner must also give a copy of the pending order to the buyer to acknowledge receipt in writing. The bill also establishes remediation and re-occupancy standard for determining when a property, contaminated as a result of methamphetamine activity, is safe for human occupancy. Local health officials, after conducting an investigation, are also required to issue an order prohibiting the use or occupancy and to post the order on the property, in addition to the property owner taking specific actions. Failure to comply with these, and all requirements of AB 1025, may subject an owner to, among other things, a civil penalty up to \$5000. Aside from disclosure requirements, AB 1025 also outlines procedures for local authorities to deal with methamphetamine contaminated properties, including filing of a lien against a property until the owner cleans up contamination or pays for cleanup costs.

The statement made by GHP was bizarre since:

- There is no such thing as “Assembly Bill 1025” in Colorado
- There is no such thing as the “Methamphetamine Contaminated Property Cleanup Act of 2005” in Colorado
- None of the provisions in the paragraph apply
- None of the provisions in the paragraph exist in Colorado
- None of the provisions in the paragraph were pertinent to any Colorado property

The statement underscored GHP’s complete lack of understanding of Colorado regulations and statutes. The statement appears to have been plagiarized from the internet from a company called HomeGuard Inc.<sup>3</sup>

A full critical review describing the errors and omissions can be found at:  
<http://www.forensic-applications.com/meth/DimickCriticalReview.pdf>

Therefore, GHP was fully aware of the mandatory regulatory requirements for a Preliminary Assessment from at least February 2007.

In an ancillary document, dated February 8, 2008, GHP demonstrated that the errors referenced in the initial document were not an anomaly, but rather, the standard of care

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<sup>2</sup> Preliminary Assessment Methamphetamine Lab Investigation For 4690 West 76th Avenue Westminster Colorado, Prepared by Peter Cappel, Gobbell Hays Partners, Inc. August 29, 2007.

<sup>3</sup> <http://www.homeguardnhd.com/ourreport.html>



exhibited by GHP in general during the assessment of illegal drug laboratories. A critical review of that document can be found here:

<http://www.forensic-applications.com/meth/ResponseCDPHE.pdf>

## ***Failure to Comply With Mandatory Elements of a Preliminary Assessment***

FACTs has conducted a Critical Review of the document titled:

Preliminary Assessment Methamphetamine Lab Investigation For 4893 South Johnson Street Denver, Colorado, Prepared For: Mr. Paul Mattamana, 11273 West Asbury Avenue, Lakewood, Colorado, Prepared By: Mr. Wade Anderson, Gobbell Hays Partners, Inc., 10500 East 54th Avenue, Suite J, Denver, Colorado 80239 GHP Project No. 10502.09, Date Of Assessment: November 22nd Date of Report: November 30th, 2010

According to Colorado State regulation 6 CCR 1014-3, when a Preliminary Assessment is conducted:

**6 CCR 1014-3 4.0 Preliminary Assessment.** A preliminary assessment shall be conducted by the consultant, in accordance with section 6.7 of this regulation, prior to the commencement of property decontamination. ... Information collected during the preliminary assessment shall include, but not be limited to, the following:

### **Failure to Comply With Paragraph 4.1**

According to State regulations, the Preliminary Assessment shall include a property description containing specific elements.

4.1. Property description including physical address, legal description, number and type of structures present, description of adjacent and/or surrounding properties, and any other observations made.

GHP failed to perform its regulatory and professional duty by failing to comply with this requirement. Nowhere within the documentation do we see where GHP has provided the legal description for this property.

GHP failed to perform its regulatory and professional duty by failing to comply with this requirement. Nowhere within the documentation do we see where GHP has provided the number and type of structures involved.

GHP failed to perform its regulatory and professional duty by failing to comply with this requirement. Nowhere within the documentation do we see where GHP has provided a description of adjacent and/or surrounding buildings.



GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>4</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

### **Failure to Comply With Paragraph 4.2**

According to State regulations, during the Preliminary Assessment, the Industrial Hygienist shall perform specific duties regarding law enforcement documentation:

4.2 Review of available law enforcement reports that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.

GHP failed to perform its duties and fulfill regulatory requirements by failing to determine if law enforcement documents were available.

In its report, GHP merely stated:

**Police Reports:**

The home has been identified as a methamphetamine laboratory by the North Metro Drug Task Force.

Therefore, GHP was demonstrably aware of the fact that a law enforcement agency was known to be involved. Based on our information, the current property occupant has copies of the law enforcement documentation, and the current owner has copies of law enforcement documentation. Therefore, clearly, law enforcement documentation was readily available. Nowhere in the GHP report does GHP document any attempts to comply with State regulations and apparently made absolutely no attempt to obtain or review any enforcement documents as required by regulation.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>5</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

### **Failure to Comply With Paragraph 4.3**

According to State regulations, during the Preliminary Assessment, the Industrial Hygienist shall perform specific duties that determine the potential for contamination migration, establish the grounds for decontamination and prepare the foundation for post clearance sampling by determining functional spaces. The Regulations explicitly require the Industrial Hygienist to:

4.3. Identification of structural features that may indicate separate functional spaces, such as attics, false ceilings and crawl spaces, basements, closets, and cabinets.

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<sup>4</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010

<sup>5</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



GHP failed to perform its duties and fulfill regulatory requirements by failing to identify functional spaces within the subject property that may be associated with unique contamination as required by regulation. Pursuant to this section of the regulations, the Industrial Hygienist is required to consider:

According to State regulations 6 CCR 1014-3 (Section 3)

“Functional space” means a space where the spread of contamination may be expected to occur relatively homogeneously, compared to other functional spaces. The “functional space” may be a single room or a group of rooms, designated by a consultant who, based on professional judgment, considers the space to be separate from adjoining areas with respect to contaminant migration. Other typical examples of functional spaces include a crawl space, an attic, and the space between a dropped ceiling and the floor or roof deck above.

In its report, GHP failed to perform the regulatory mandated identification of structural features that may indicate separate functional spaces. GHP’s assessor’s observational powers were so grossly inadequate, and he was so grossly incompetent, he entirely failed to even recognize that an attic existed at the property. Instead, GHP ignored the regulatory requirements and merely stated:

The home is a wood frame structure with gypsum board interior walls. The structure consists of two levels, main living area and full finished basement. The main floor has a living area (great room), kitchen and dining area, bathroom and three bedrooms. A crawl space is located adjacent to the finished basement. A natural gas forced air furnace is located in the basement.

The establishment of Functional Spaces is absolutely integral to the utility of the Preliminary Assessment. Without the assessment and identification of the Functional Spaces, decontamination cannot properly occur, and without the identification of the Functional spaces, final clearance sampling cannot occur since State regulations require the clearance sampling to be based on those Functional Spaces that have been identified in the Preliminary Assessment.

As described later, had GHP performed its regulatory obligations, it would have identified at least the following 16 functional spaces. Based on our very brief visit (approximately half an hour), FACTs identified the following Functional Spaces :

- 1 Attic
- 2 Central Bedroom
- 3 Crawlspace
- 4 Down stairs bathroom
- 5 Downstairs NE Storage room
- 6 Downstairs Recreation Room
- 7 Downstairs SE Storage room
- 8 Furnace room



- 9 Garage
- 10 Hall bathroom
- 11 Living-room kitchen- dining room hall complex
- 12 Master bedroom
- 13 Master bathroom
- 14 NE Bedroom
- 15 Stair well
- 16 Ventilation system

It would appear that GHP lacked the regulatory knowledge necessary to fulfill this obligation and/or technical knowledge or experience needed to make such a professional decision, and therefore failed to make the proper distinction.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>6</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

#### **Failure to Comply With Paragraph 4.4**

According to State regulations, during the Preliminary Assessment, the Industrial Hygienist shall identify the manufacturing process used on site. The information is imperative and indispensable during the Preliminary Assessment, since the decontamination efforts may be incumbent on the type of process used. Furthermore, the post decontamination sampling shall be incumbent on the type of process used. The state regulations explicitly require the Industrial Hygienist to:

- 4.4. Identification of manufacturing methods based on observations and law enforcement reports.

Since GHP failed to attempt to obtain law enforcement records as required, GHP could not have complied with this provision. Similarly, since GHP has not demonstrated any documentable knowledge of manufacturing processes (and has an history of providing erroneous information), GHP personnel have demonstrated gross technical incompetency in determining if manufacturing took place, and so there is no reason to expect GHP to have sufficient competency in recognizing, or knowing the significance or having the ability of discerning which method was used.

State Regulations explicitly require the following:

- 7.3. If the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface wipe samples for lead shall not exceed a concentration of 40 µg /ft<sup>2</sup>, and vapor samples for mercury shall not exceed a concentration of 1.0 µg /m<sup>3</sup>.

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<sup>6</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



GHP entirely failed to perform its obligatory and professional duties, and entirely failed to even grasp the importance of this determination and instead GHP falsely states:

**Manufacturing Methods:**

No evidence of the specific meth manufacturing method was found in the home during GHP's investigation.

By making this statement, GHP falsely represents site conditions since the law enforcement agency had documentation available at the time of the GHP site visit that contained ample information, *to a person who has been properly trained in the aspects of methamphetamine manufacturing* to determine that not only was methamphetamine manufactured at the property, but also by which method.

As it is, the law enforcement documentation indicates a pseudoephedrine reduction method of production was used at the subject property; such a method uses iodine. According to State Regulations (6 CCR 1014-3 (7.2):

If there is evidence of iodine contamination on materials or surfaces that will not be removed, surface wipe samples for iodine shall not exceed a concentration of 22 µg/100 cm<sup>2</sup>.

Had GHP possessed even the slightest rudimentary knowledge of clandestine drug laboratory assessment, GHP would have known that the Red Phosphorous method is associated with iodine. Nowhere in the GHP documentation do we see where GHP has made any attempt to address this possible contaminant, and nowhere do we see that GHP even mentioned iodine in its report.

Since there is no indication that GHP even make the slightest attempt to retrieve any law enforcement documentation, GHP entirely ignored this very important information, upon which both the decontamination and the final clearance sampling MUST be based.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>7</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

**Failure to Comply With Paragraph 4.5.**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.5. Identification of chemicals used, based on observations, law enforcement reports, and knowledge of manufacturing method(s).

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<sup>7</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



GHP entirely failed to perform its professional, regulatory obligations and duties and failed to fulfill this regulatory requirement by failing to identify the chemicals that were clearly identified in the available law enforcement documents.

Since GHP failed to attempt to obtain law enforcement records as required, GHP could not have complied with this provision.

In fact, the readily available documentation for this subject property includes a wealth of information regarding the chemicals used and located by law enforcement at the property *to a person who has been properly trained in the aspects of methamphetamine manufacturing*. Clearly the gross and profound incompetence and lack of any documented knowledge of clandestine drug lab assessment places GHP in the position that it would have been entirely incapable of performing this professional and regulatory obligation.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>8</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

### **Failure to Comply With Paragraph 4.6**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.6 Identification and documentation of areas of contamination. This identification may be based on visual observation, law enforcement reports, proximity to chemical storage areas, waste disposal areas, or cooking areas, or based on professional judgment of the consultant; or the consultant may determine that assessment sampling is necessary to verify the presence or absence of contamination. If the consultant determines that assessment sampling is necessary, such sampling shall be conducted in accordance with the sampling protocols presented in Appendices A and D. Sample analysis shall be conducted in accordance with the method requirements presented in Appendices B and D.

GHP failed to perform its duties and fulfill regulatory requirements by failing to identify or recognize signs of contamination.

In its report, GHP merely makes the passing statement:

GHP collected 13 wipe samples for meth throughout the house. Refer to Appendix A for the sample log for location descriptions for the wipe samples.

Indeed, if we go to GHP Appendix A, we find that not only did GHP fail to comply with this regulatory requirement but when we review sample collection, we find that samples were not conducted in accordance with the sampling protocols presented in Appendices A and D.

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<sup>8</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



Since GHP did not review the law enforcement documents as required, and, based on the several fatal flaws found in their discussion they otherwise lacked any legitimate knowledge in the assessment of clandestine drug laboratories, it is not surprising that they missed several obvious signs of contamination. That is, when we reviewed just the photographs taken by GHP during their site assessment, we can identify several visible signs of contamination. Since GHP was entirely incompetent during this assessment, they entirely failed to note those visual signs for what they were.

Finally, the regulations clearly state that:

If the consultant determines that assessment sampling is necessary, such sampling shall be conducted in accordance with the sampling protocols presented in Appendices A and D.

Based on the fact that GHP failed to comply with so many other provisions of the State regulations, it is difficult to properly assess the samples that were collected. However, based on the limited information in the report, sample collection did not follow the protocols presented in Appendices A and D.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>9</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

Furthermore, in its report, GHP claims to have sampled the ventilation system duct interior. In its report, GHP identifies Sample M-10502.09-05 as “Inside HVAC return on main level hallway.” However, that particular grille was opened by FACTs during our August 31, 2011 visit. The grille had been sealed to the wall with several thick layers of historical paint, and a sealing material. The surfaces behind the grille had no evidence of being disturbed as would occur with a wipe sample. It is difficult to understand how GHP could have collected 100 cm<sup>2</sup> of surface area behind the grille without removing the grille and without disturbing any of the interior surfaces or removing any of the surface debris.

### **Failure to Comply With Paragraph 4.7**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.7. Identification and documentation of chemical storage areas.

However, since GHP entirely failed to review the available law enforcement documents, as required by regulation, they entirely failed to address chemical storage. In their report, GHP states:

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<sup>9</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



**Chemical Storage:**

During GHP's preliminary assessment, no chemicals were discovered that may have been associated with meth manufacturing.

In fact, this statement underscores their profound technical ignorance and incompetence since in their photographic presentation, GHP provides photographs of chemicals that are associated with methamphetamine manufacturing. However, since the assessors were completely incompetent to perform such an assessment, they entirely failed to recognize the chemical storage for what it was.

**Failure to Comply With Paragraph 4.8.**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.8. Identification and documentation of waste disposal areas.

GHP failed to perform its duties and fulfill regulatory requirements by failing to identify the waste disposal areas that were immediately visible to FACTs during our very brief cursory visit on August 31, 2011. In their report GHP states:

No evidence of waste disposal in accordance with meth manufacturing was apparent on the property. There was no staining of soils on the property that would be indicative of waste disposal outdoors.

In fact, there were several visible signs of waste disposal in the structure and in the back yard. However, because of the lack of credible competency in methlab assessments, as patently evidenced by the errors and omissions outlined in this discussion, GHP entirely failed to identify those areas. Furthermore, the fact that GHP failed to provide photographic archives of the back yard, as required by 6 CCR 1014-3, Paragraph 4.13, GHP has no idea as to what those signs of disposal may have been.

In any event, considering the overt errors, omissions and false representations made in their report, clearly by an assessor with no documented experience or knowledge in performing such work, it is not surprising that GHP similarly lacked the knowledge to recognize those signs.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>10</sup> criticized for the very same deficiencies. Therefore, the failure to perform was apparently willful.

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<sup>10</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



### **Failure to Comply With Paragraph 4.9.**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.9. Identification and documentation of cooking areas.

This is imperative information, where available, since it helps to direct proper decontamination as well as final clearance sampling activities.

In their report, GHP falsely represents:

**Cooking Areas:**

No evidence of prior cooking could be found in the home.

This is a patently false statement, made with deliberation and willful violation of the regulations, since HP has previously been criticized for the same regulatory violation.<sup>11</sup>

Visible signs were available at the property to any legitimate professional **who has been properly trained in the assessments of methamphetamine laboratories** along with information and clues from law enforcement documentation. However, since GHP lacked any legitimate knowledge of clandestine drug lab assessment, and entirely failed to meet their regulatory obligation and review law enforcement documentation, they entirely failed to comply with this element of a Preliminary Assessment.

### **Failure to Comply With Paragraph 4.10.**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.10 Identification and documentation of signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation.

Within a few seconds of entering the property during our very brief cursory visit on August 31, 2011 FACTs immediately identified "...signs of contamination such as staining, etching, fire damage, or outdoor areas of dead vegetation."

Nowhere in the GHP report do we find that GHP even addressed this mandatory element for a Preliminary Assessment. However, even the photographs provided by GHP in their negligent report contained evidence of contamination such as staining. However, due to their entirely incompetent professional behavior, GHP entirely failed to identify even the most rudimentary burns and stains that were immediately visible.

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<sup>11</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>12</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 4.11**

According to State Regulations, during the Preliminary Assessment, the Industrial Hygienist is required to perform specific duties including:

4.11. Inspection of plumbing system integrity and identification and documentation of potential disposal into the sanitary sewer or an individual sewage disposal system (ISDS). ... *et seq.*

During our very brief cursory visit to the S Johnson Street property, FACTs readily observed heavy corrosion and evidence of waste disposal in three, immediately visible, locations. Yet, in their report, GHP falsely stated:

**Plumbing System Impact:**

Visual inspection of the various sinks and drains did not reveal staining indicative of meth manufacturing waste disposal

Clearly GHP simply employed absolutely no effort to perform its regulatory or professional obligations since to miss such patently obvious signs of corrosion in the plumbing system would require demonstrable blindness.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>13</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 4.14**

During the Preliminary Assessment, the Industrial Hygienist is required to provide:

Photographic documentation of property conditions, including cooking areas, chemical storage areas, waste disposal areas, and areas of obvious contamination.

GHP failed to meet this responsibility by failing to provide photographs of the manufacturing and storage locations, failing to provide photographs of site conditions in each of the functional spaces (failing to even recognize the existence of an attic), and failing to document the exterior conditions.

In any event, one could reasonably conclude that an area of “obvious contamination” would include areas where wipe samples were positive for methamphetamine and where

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<sup>12</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010

<sup>13</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



law enforcement documents identified chemical storage. However, GHP is so grossly and profoundly incompetent, they did not even provide photographs of those areas wherein their own samples demonstrated overt contamination.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>14</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Section 6.0**

In fact, the sampling conducted by GHP was both useless and unnecessary, since it failed to meet the objectives of such sampling as defined by State Regulations which explicitly provide that:

6.0.1 Except as provided in 6.0.2, assessment sampling shall be conducted as part of the preliminary assessment to characterize the nature and extent of contamination. Assessment sampling and laboratory analysis shall be conducted in accordance with Appendices A, B and D of these regulations.

In this case, there was ample evidence to make the same Preliminary Assessment decisions made by GHP without any sampling. That is, none of the sampling performed by GHP was actually used by GHP in their decision making process, and was simply a willful waste the financial resources of the property owner. Furthermore, none of the samples collected by GHP met the regulatory requirements for such sampling. Instead, the sampling performed by GHP appeared to be willy-nilly grab samples with no professional decision making process and were collected with complete disregard for Appendices A of the State regulations.

In their report, GHP makes the fraudulent statement that:

GHP collected 13 wipe samples for meth in the house. The assessment was done in accordance with the Colorado Department of Public Health and Environment regulations pertaining to the cleanup of methamphetamine laboratories, 6-CCR 1014-3.

The manner of sample collection performed by GHP as represented in their report, exhibited so many variances with Appendix A, that it would not be expedient at this point to identify all those deviations. However, upon request, FACTs will provide a written Critical Review of the grossly incompetent sampling performed by GHP. Below, we have provided just a few examples.

### **Failure to Comply With Paragraph 6.1**

State regulations require that samples be collected from:

6.1.1. Areas expected to **have the highest levels** of contamination, such as cooking areas, chemical storage areas, and waste disposal areas

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<sup>14</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



In fact, since, as well established in the preceding discussion, GHP was so entirely unfamiliar with clandestine drug lab assessment protocols, and clandestine drug labs in general, GHP failed to realize that the locations of the documented samples were not collected from areas that would have represented the highest potential concentrations. Upon request FACTs will provide a written detailed explanation of why the GHP samples were not representative of the highest potential concentrations.

### **Failure to Comply With Section 8**

State Regulation 6 CCR 1014-3 contains several required elements to be included in the final documentation. Some of those elements that must be included in the final documentation must necessarily come from the Industrial Hygienist performing the Preliminary Assessment; specifically:

- Section §8.11
- Section §8.12
- Section §8.13
- Section §8.14
- Section §8.20
- Section §8.21
- Section §8.22
- Section §8.23

### **Failure to Comply With Paragraph 8.11**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.11. A description of the sampling procedures used, including sample collection, handling, and QA/QC.

Nowhere in the GHP report, do we find where this information has been provided for inclusion in the final documentation.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>15</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 8.12**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.12. A description of the analytical methods used and laboratory QA/QC requirements.

Nowhere in the GHP report, do we find where this information has been provided for inclusion in the final documentation.

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<sup>15</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



### **Failure to Comply With Paragraph 8.13**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.13. A description of the location and results of initial sampling (if any), including a description of sample locations and a figure with sample locations and identification.

Nowhere in the GHP report, do we find any drawings indicating sample locations as required by State regulations.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>16</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 8.14**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.14. A description of the health and safety procedures used in accordance with OSHA requirements.

Nowhere in the GHP report, do we find the information as required by State regulations.

GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>17</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 8.20**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.20. Photographic documentation of pre- and post-decontamination property conditions, including cooking areas, chemical storage areas, waste disposal areas, areas of obvious contamination, sampling and decontamination procedures, and post-decontamination conditions.

Nowhere in the GHP report, do we find the photographs as required by State regulations. Indeed, contrary to law enforcement documents, and contrary to their own inspection notes, GHP denies these areas even exist. Furthermore, as already mentioned above, GHP appears to have not noticed that there was an attic or exterior grounds associated with the subject property since they entirely failed to photograph these locations.

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<sup>16</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010

<sup>17</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



GHP was fully aware of these deficiencies prior to performing the work at the South Johnson Street property since GHP was previously<sup>18</sup> criticized for the very same deficiencies. Therefore, the failure to perform this duty was willful.

### **Failure to Comply With Paragraph 8.21**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.21. Consultant statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and description of experience in assessing contamination associated with methamphetamine labs.

### **Unauthorized Personnel**

One of the mandatory provisions, pursuant to state regulations promulgated by the Colorado State Board of Health and designated as “6 CCR 1014-3, *Regulations Pertaining To The Cleanup Of Methamphetamine Laboratories*” states that assessments of properties within the scope of the regulation can only be performed by authorized Industrial Hygienists meeting the definition of Section 24-30-1402 of the Colorado Revised Statutes. According to the regulations, during the assessment, the Industrial Hygienist must perform hypothesis testing wherein:

The strength of evidence needed to reject the hypothesis is low, and is only that which would lead a reasonable person, **trained in aspects of methamphetamine laboratories**, to conclude the presence of methamphetamine, its precursors as related to processing, or waste products.

The GHP report contains numerous contradictions and failure to properly document who actually performed the work, and entirely failed to demonstrate that individual has any kind of knowledge in performing the work at all. Obviously due to the many gross and profoundly incompetent errors and omissions identified in this Critical Review, GHP in general, is completely clueless about assessing a clandestine drug lab and the regulations pertaining thereto.

#### ***Mr. Wade Anderson***

The GHP report conflicts with itself and originally states that the work was done by Mr. Wade Anderson. Yet nowhere in the document do we find the mandatory documentation that demonstrates Mr. Anderson’s statement of qualifications, professional certification or qualification, as an industrial hygienist as defined in section 24-30-1402, C.R.S., or a description of Mr. Anderson’s experience in assessing contamination associated with methamphetamine labs. GHP has entirely failed to perform this duty and provide that information.

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<sup>18</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010



### ***Mr. John Peterson***

The GHP report then conflicts with itself and says that the work was actually done by Mr. John Peterson, who is NOT an Industrial Hygienist (as required by regulation), but rather Mr. Peterson has a make-believe title called “Environmental Specialist.” A five year old child with a kindergarten education may lawfully call themselves an “Environmental Specialist” and they would ostensibly have at least the same technical competency in assessing clandestine drug labs as that displayed by Mr. Peterson, as represented in the GHP report.

Nowhere in State regulations is there an exception made for the make-believe title called “Environmental Specialist” as a substitute for an Industrial Hygienist. Furthermore, even if Mr. Peterson was a legitimate Industrial Hygienist, nowhere in the document do we find the mandatory documentation to demonstrate Mr. Peterson’s statement of qualifications, professional certification or qualification, as an Industrial Hygienist as defined in section 24-30-1402, C.R.S., or a description of Mr. Anderson’s experience in assessing contamination associated with methamphetamine labs. GHP has entirely failed to perform this duty and provide that information. It would appear that GHP fraudulently sent an entirely incompetent individual representing that person as a Industrial Hygienist to the South Johnson Street property.

### ***Mr. Kenneth Garza***

In their report, GHP states that the overt gross incompetence exhibited by Mr. Peterson was in fact at the direction of Mr. Kenneth Garza, “Environmental Scientist/Industrial Hygienist for GHP, Inc.” Therefore, it would appear that the incompetence exhibited by GHP is systemic in the GHP hierarchy since we have not only seen this negligence from just these three members of GHP but also historically from the GHP Certified Industrial Hygienist.<sup>19,20</sup>

In any event, nowhere in the GHP document do we find where GHP has provided the mandatory statement of qualifications, professional certification or qualification, as an Industrial Hygienist as defined in section 24-30-1402, C.R.S., or a description of Mr. Garza’s experience in assessing contamination associated with methamphetamine labs. GHP has entirely failed to perform this duty and provide that information.

To our knowledge, none the authors of the GHP report have specific knowledge of methamphetamine laboratories. The documentation provided by GHP contains nothing that would demonstrate that the personnel involved with the assessment work have any training specific to clandestine drug laboratories, or the pertinent regulations. Nothing within the provided documentation demonstrates that the personnel involved with the assessment work were authorized to perform assessments of clandestine drug laboratories, pursuant to pertinent regulations. Considering the gross lack of technical

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<sup>19</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010

<sup>20</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, regarding the matter of 4690 West 76th Ave., Westminister Colorado, March 9, 2010



competency exhibited by the authors of the report, one may reasonably conclude that none of the individuals involved has received any legitimate training in the subject matter.

### **Failure to Comply With Paragraph 8.22**

According to State Regulations, the Industrial Hygienist is required to provide specific information to be included in the final document including:

8.22. Certification of procedures and results, and variations from standard practices.

In the preceding document, FACTs has identified scores of deviations from standard practices, and yet not a single one of these deviations has been identified by GHP in their report, as required by regulations.

Furthermore, if GHP believes, as represented, that the following statement is a certification:

#### **Certification Statement**

We do hereby certify that we conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, § 4.

...then, FACTs is of the opinion that such a statement meets the elements of criminal fraud as defined by Colorado Revised Statutes.

#### ***Colorado Criminal Code – Fraud; Offering a false instrument for recording***

One of two mental states necessarily must have been present in the performance of the GHP work: 1) Either GHP knew that the work it was performing was grossly incompetent and not in compliance with State Regulations (as demonstrated above) or, 2) GHP was unaware of the fact that their work was grossly deviating from mandatory State requirements.

If GHP did not know that their work was grossly deviating from mandatory State requirements, then that is sufficient to surmise that they lacked the technical competency and authority to perform the work in the first place since it is their professional obligation to conform to those regulations and perform work pursuant to those regulations. Indeed, on two occasions in the GHP report, personnel have signed statements affirming on a legal document that the work they performed conformed to those regulations.

However, since FACTs has, in the past<sup>21,22</sup> repeatedly pointed out the same deficiencies in GHP's work, (as referenced in this discussion), one must surmise that GHP knowingly and willingly performed work that grossly deviated from mandatory State requirements.

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<sup>21</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, Regarding 4950 W. 71st Place Westminster, CO 80030, February 8, 2010

<sup>22</sup> FACTs Report to Sherry Dimick, Prime Properties Realty Real Estate, regarding the matter of 4690 West 76th Ave., Westminister Colorado, March 9, 2010



According to Colorado Revised Statute CRS §18-5-114 (*Offering a false instrument for recording*), a person commits a class 5 felony when offering a false instrument for recording in the first degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.

Pursuant to State statute, and state regulations, the mandatory “Preliminary Assessment” and the final report on post remediation sampling of an illegal drug lab is filed with the “Governing Body” with jurisdiction wherein the property is located.

GHP explicitly states they possess knowledge of the regulations, and therefore, establish the fact that they are aware of such recording.

We recommend that the situation be forwarded to the District Attorney for proper evaluation, and to determine if the case rises to the level of criminal conduct, especially considering that HP has made a documented history of ignoring State Regulations and State Statutes, and has, with foreknowledge, failed to perform its regulatory and professional obligations in this matter on past occasions.

We also recommend the Governing Body perform an historical review of all other assessments performed by this organization to determine if similar violations have occurred.

## **DECONTAMINATION**

Based on our observations, and based on the available documentation, no legitimate decontamination as required by regulation, occurred at the property as falsely represented by Quest Environmental Services.

Based on the totality of circumstances FACTs has identified that, at a minimum, the contractor failed to comply with the following provisions of mandatory Colorado Regulations:

- Section §4.0
- Section §5.0
- Paragraph §5.2
- Paragraph §5.3
- Paragraph §5.4
- Paragraph §5.5
- Paragraph §5.8



## **Failure to Comply With Section 4.0**

According to Colorado Regulations 6 CCR 1014-3, Section 4.0:

**Preliminary Assessment.** A preliminary assessment shall be conducted by the consultant, in accordance with section 6.7 of this regulation, prior to the commencement of property decontamination. Information gained during the preliminary assessment shall be the basis for property decontamination and clearance sampling.

Since no Preliminary Assessment was performed for this property, any attempts to cleanup the property were unlawful to the extent that the cleanup must be based on the Preliminary Assessment.

## **Failure to Comply With Paragraph 5.2**

According to Colorado Regulations 6 CCR 1014-3, Section 5.0, Paragraph 5.2:

5.2 Detergent water washing of non-porous, porous and semi porous surfaces that are contaminated, or that are reasonably expected to be contaminated, that will not be removed.

Based on just a rudimentary and cursory walkthrough, it was immediately apparent to us that no cleaning of any legitimate kind had occurred at the property.

During our very brief cursory visit on August 31, 2011, within seconds, FACTs was able to discern, through a simple visual inspection, that none of the areas identified as being in need of decontamination had EVER been decontaminated by even the slightest manner let alone as required by regulation. Even the most rudimentary and cursory visual inspection would have revealed to even the most incompetent consultant that the surfaces in the property were heavy laden with historical settled and impacted dust and grime. Without accepting criminal intent to defraud, it is the opinion of FACTs that it would be virtually impossible to “accidentally” overlook the vast and widespread quantities of filth, dead animals, and heavily laden surfaces. That is, no legitimate consultant performing the mandatory post decontamination visual assessment could possibly be so incompetent as to not notice the obvious heavy dirt, grime, dead animals, and dust on supposedly “decontaminated” surfaces.

## **Failure to Comply With Paragraph §5.3**

State Regulations require removal of all contaminated material that will not or cannot be decontaminated to specified cleanup levels.

5.3. Removal of all contaminated material that will not or cannot be decontaminated to cleanup levels specified in Section 7.0 of the regulation. Removal of all contaminated materials if sampling cannot demonstrate that cleanup levels have been met. *et seq.*

In this case, contaminated materials were simply left in place without any cleaning, thus exposing the new occupants to those contaminants. Based on our brief site visit, we were unable to locate ANY surfaces that had actually been cleaned.



## **Failure to Comply With Paragraph §5.4**

Encapsulating surfaces prior to final clearance sampling is prohibited.

5.4. Encapsulation of porous and semi porous surfaces may be conducted after detergent water washing and after clearance sampling has demonstrated that cleanup levels have been achieved.

In this case, in violation of regulation, surfaces were painted following official discovery and prior to the performance of a Preliminary Assessment, and prior to any State mandated clearance sampling.

## **Failure to Comply With Paragraph §5.5**

State regulations require the decontamination of contaminated ventilation systems.

5.5. Decontamination of ventilation systems by a contractor that is trained and equipped to comply with the protocol for ventilation system decontamination presented in Appendix C of these regulations.

GHP was required by regulation to either assume the ventilation duct system was contaminated and require its decontamination or, GHP was required to clear the ventilation system through specific sampling requirements. In fact, GHP did neither.

The Contractor was required to clean or remove the ventilation system. Neither of these options occurred, and the contaminated system was simply left in place.

The post remediation assessment was supposed to be performed by an Industrial Hygienist, who was supposed to collect samples of the ventilation system if there were no visual indicators to contradict the need to sample.

1. No Industrial Hygienist was involved in the post “mitigation” activities.
2. An individual falsely representing himself as an Industrial Hygienist entirely failed to inspect the ventilation system, and
3. That individual entirely failed to collect clearance samples from the interior of the ventilation system.

As it is, the sample collected by GHP which most closely represents the ventilation system was Sample M-10502.09-05 that indicates noncompliant levels of methamphetamine in the ventilation system.

Therefore, the ventilating system needed to be decontaminated pursuant to Colorado Regulation CCR 1014-3, Appendix C Methamphetamine Laboratories, Ventilation System Decontamination. This Appendix delineates how a contaminated system is to be decontaminated.



During our very brief cursory visit on August 31, 2011, within seconds, FACTs was able to determine that the ventilation had NEVER been decontaminated as required by regulation and no legitimate samples of the duct interior had EVER been collected for clearance as claimed by Quest Environmental.

FACTs opened the grille to the return vent and collected a wipe sample from the duct interior, the surface of the duct interior was conclusively determined to be noncompliant and FACTs confirmed the duct interiors contain at least 2.04 µg/100cm<sup>2</sup> (four times greater than permitted by regulation).

Upon opening the duct at the furnace on August 31, 2011, FACTs observed a very old, and desiccated, rodent and we observed extremely heavy debris inside the duct. This was not an isolated observation – FACTs also opened the return vent from whence a GHP sample was collected. The duct was literally choked with masses of hair, filth, and debris. Within an instant, even an untrained child could have immediately discerned that the ventilation system had NEVER been cleaned as claimed by Quest.

### **Failure to Comply With Paragraph §5.8**

According to Colorado Regulations items within the contaminated structure must be addressed.

- 5.8.1 Personal property must either be decontaminated to the cleanup levels specified in section 7.0 of this regulation, or properly disposed in accordance with these regulations.
- 5.8.2 Personal property that will not be disposed of must be sampled in accordance with procedures described in Appendix A of this regulation. Discrete samples must be collected from each individual item, except as provided in 5.8.3.

None of the documentation provided addresses the fate of the chattels that were in the structure. Based on the best information available, in violation of State regulations and State statutes, the chattels were merely removed from the property.

### **Failure to Comply With Appendix C**

The State of Colorado has established mandatory minimum requirements that must be followed in the decontamination of a ventilation system. Those requirements are presented in

APPENDIX C  
METHAMPHETAMINE LABORATORIES  
VENTILATION SYSTEM DECONTAMINATION

**Purpose**

The purpose of this appendix is to establish minimum requirements for the decontamination of ventilation systems at buildings and structures that have been used as drug laboratories.

### **Failure to Comply With Paragraph 1**

1. Perform a walk-through of the structure prior to initiation of the project to establish a specific plan for decontamination of the ventilation system.



No specific plan was ever developed by anyone for this property.

### **Failure to Comply With Paragraph 2**

3. Place protective coverings in areas where work is being performed, including plastic or drop cloths around each area where the duct is penetrated.

Since no ducts were cleaned or opened this section was obviously not followed.

### **Failure to Comply With Paragraph 5**

5. Perform a visual inspection of the interior ductwork surfaces and internal components.

This task was never performed since even the most rudimentary or cursory visual inspection would have revealed that the duct interiors are choked with deep historical dirt, dead animals and debris.

### **Failure to Comply With Paragraph 7**

7. Remove and clean all return air grills.

During our August 31, 2011 visit, we observed that the return grilles had never been opened or cleaned. The return grille not only contained visible historical dust, but the grille we opened was sealed to the wall with several layers of old paint that had never been disturbed.

### **Failure to Comply With Paragraph 8**

8. Beginning with the outside air intake and return air ducts, clean the ventilation system using pneumatic or electrical agitators to agitate debris into an airborne state. Additional equipment may be also be used in the cleaning process, such as brushes, air lances, air nozzles, and power washers. Controlled containment practices shall be used to ensure that debris is not dispersed outside the air conveyance system during cleaning.

Even the most rudimentary visual inspection would reveal that the duct interiors were choked with historical dirt and debris. Indeed, even a blind person could have made such a determination by merely placing their hand inside a duct interior where they would have been able to remove handfuls of historical accumulated debris.

### **Failure to Comply With Paragraph 9**

9. Open and inspect air handling units, and clean all components.

See the notes above. Inside the air handling unit itself, we observed a very old dead rodent in plain view inside the air handler.



## **Failure to Comply With Paragraph 10**

10. Remove and clean all supply diffusers.

The supply diffusers contained visible historical dirt and had not been cleaned for possibly decades, or if ever, since the house was constructed.

## **Failure to Comply With Paragraph 11**

11. Clean the supply ductwork using the techniques described in item 8 above.

The supply ductwork was choked with extremely heavy historical dirt and debris; so heavy in fact, that handfuls of debris could be easily removed by merely reaching into a duct and removing the debris. It is the professional opinion of FACTs that no decontamination activities, as required by regulation, ever occurred at the subject property.

## **POST DECONTAMINATION ACTIVITIES**

### ***Executive Summary***

Based on the totality of circumstances, FACTs makes the following observations:

- No post mitigation assessment was ever performed for this property pursuant to Colorado Regulations. Specifically, FACTs has identified a failure to comply with the following sections of 6 CCR-1014-3 and State Statutes:
  - Failure to Comply With Section 8.0
  - Failure to Comply With Paragraph §8.2
  - Failure to Comply With Paragraph §8.3
  - Failure to Comply With Paragraph §8.4
  - Failure to Comply With Paragraph §8.8
  - Failure to Comply With Paragraph §8.14
  - Failure to Comply With Paragraph §8.15
  - Failure to Comply With Paragraph §8.16
  - Failure to Comply With Paragraph §8.18
  - Failure to Comply With Paragraph §8.20
  - Failure to Comply With Paragraph §8.21
  - Failure to Clear the Ventilation System (*viz*: Section 6.0)
  - Failure to Collect Lawful Post Mitigation Clearance Samples
  - Failure To Comply with Appendix A -Test Mandatory Hypothesis
  - Failure To Comply with Appendix A -Failure to Collect Bias Samples
  - Failure To Comply with Appendix A -Collection of Samples From Prohibited Surfaces
  - Failure To Comply with Appendix A -Failure to Collect Sufficient Surface Areas
  - Failure To Comply with Appendix A -Failure to Submit Field Blanks
  - Failure to Comply With Paragraph 8.22 (Fraudulent Statements)
  - Failure to Comply With Paragraph 8.23
  - Colorado Criminal Code §18-5-114 – Fraud; Offering a false instrument for recording
  - Colorado Criminal Code §18-5-113. Criminal impersonation



- The property remains heavily contaminated with methamphetamine.
- FACTs collected a series of samples, and to control costs, submitted just two samples: Those samples confirm the following:
  - The duct system interior contains *at least* 2.04 µg/100cm<sup>2</sup>
  - The garage surfaces contain *at least* 2.45 µg/100cm<sup>2</sup>
- Post mitigation activities were conducted by an individual with Quest Environmental with an history of making false claims and performing grossly incompetent work.
- Post mitigation activities were conducted by an individual who has falsely represented himself as an Industrial Hygienist, and who in the past, has insisted that he is NOT an industrial Hygienist.
- None of the post mitigation samples that were collected were so collected in a manner that were compliant with Colorado's mandatory regulations.
- The property remains in a state of overt non-compliance.
- FACTs recommends that the Governing Body prepare a list of properties assessed by this contractor for independent review, since the deficiencies identified here are an hallmark of this individual's work.
- FACTs recommends that the Governing Body forward this critical review to the District Attorney's office to determine if the activities rise to the standard of criminal fraud.

## ***Introduction***

Following a remediation action, an Industrial Hygienist is required by regulation to assess the property for adequacy of decontamination and, **if necessary**, collect a specific number of samples, of a specific size from specific locations. If a Functional Space fails, that area is necessarily, by regulation, isolated and recleaned by the contractor.

For this property at no time, did any of the verification sampling conform to State requirements.

## ***Failure to Comply With Section 8.0***

Section 8 of the Colorado Regulations require a final report to be prepared. The final report must contain specific information.

**8.0 Reporting.** A final report shall be prepared by the consultant to document the decontamination process and demonstrate that the property has been decontaminated to the cleanup levels listed in Section 7.0 of these regulations. The final report shall include, but not be limited to, the following:

## ***Failure to Comply With Paragraph §8.2***

According to the regulations, the final document is required to contain specific information including:



8.2. Description of manufacturing methods and chemicals used, based on observations, law enforcement reports and knowledge of manufacturing method.

Quest entirely failed to comply with this regulatory requirement and attempted to shrug the obligation by first fabricating and claiming that no law enforcement documents were available, and then trying to shift the responsibility to GHP. In its report, Quest stated:

**Description of Manufacturing Method and Chemicals Used:** No law enforcement report was available, so the manufacturing method or chemicals used are unknown. The Gobbell Hays Partners report states that no evidence of specific meth manufacturing were found in the home and no chemicals were discovered that may have been used in the meth manufacturing process.

There is no evidence in their report, that Quest made any attempt whatsoever to obtain the (otherwise readily available) law enforcement documents, which were in the possession of at least the occupant. There is no stipulation in the regulations that if a grossly incompetent company (such as GHP) fails to comply with the regulations and fails to comply with the elements of a Preliminary Assessment, then the consultant performing the clearance sampling also gets to ignore regulations and also not comply with regulations. Quest had the regulatory duty to provide the mandatory documentation in its final report, independent of the gross incompetence of anyone else.

### ***Failure to Comply With Paragraph §8.3***

According to the regulations, the final document is required to contain specific information including:

8.3. If available, copies of law enforcement reports that provide information regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and observed areas of contamination or waste disposal.

Law enforcement documents do not copy and deliver themselves without solicitation to consultants. Consultants have the obligation to determine if such documents are in fact available. Quest entirely failed to perform its duty and entirely failed to comply with this regulatory requirement. Instead, Quest falsified their report and stated:

**8.3 Law Enforcement Reports:** No law enforcement reports were available for the subject site.

It is difficult to understand how FACTs has a copy of the “unavailable” law enforcement documents, but Quest does not have a copy of the available law enforcement documents.

### ***Failure to Comply With Paragraph §8.4***

According to the regulations, the final document is required to contain specific information including:

8.4. A description of chemical storage areas, with a figure documenting location(s).



Quest failed to perform its regulatory duties and failed to provide the mandatory information. Instead, Quest seems to think that it was someone else's responsibility to perform their job. In their report, Quest makes the following statement:

**8.4 Description of Chemical Storage Areas:** The Gobbell Hays Partners report states that no chemicals were discovered that may have been used in the meth manufacturing process. At the time of our inspection, no meth specific chemicals were identified in the residence. See Figure 1 for potential chemical storage areas.

However, GHP was not preparing the final documentation; Quest was preparing the final documentation, and it was exclusively the regulatory responsibility of Quest to comply with the regulatory requirements of the final document package.

### ***Failure to Comply With Paragraph §8.8***

According to the regulations, the final document is required to contain specific information including:

8.8. The results of inspection of plumbing system integrity and identification of sewage disposal mechanism.

Quest failed to comply with this regulatory requirement. Remarkably, Quest claims that such information was "outside Quest's scope of work." It is difficult to understand how Quest can claim to have performed final clearance assessment, according to State Regulations, and yet simultaneously claim that those same regulations are "outside Quest's scope of work."

Quest does not have the regulatory authority to simply disregard State mandated regulatory compliance parameters.

In their report, Quest states:

**8.8 Plumbing Inspection Results:** The plumbing system is reportedly connected to the municipal sanitary sewer system. A detailed plumbing inspection is outside Quest's scope of work. However, a general inspection of the accessible plumbing features revealed the areas to be under normal conditions. No chemical etching, significant oxidation or residues were observed on any of the plumbing features, other than what appeared to be normal aging and wear.

In fact, even a cursory evaluation of some of the drains clearly revealed that there was unusual and extensive corrosion associated with those drains; corrosion not normally seen.

### ***Failure to Comply With Paragraph §8.14***

According to the regulations, the final document is required to contain specific information including:

8.14. A description of the health and safety procedures used in accordance with OSHA



requirements.

Quest failed to comply with this regulatory requirement and nowhere in the final documentation do we see where Quest has provided this information.

### ***Failure to Comply With Paragraph §8.15***

According to the regulations, the final document is required to contain specific information including:

8.15. A description of the decontamination procedures used and a description of each area that was decontaminated.

We do not see where this information has been included in the copy of the Quest report that we received.

### ***Failure to Comply With Paragraph §8.16***

According to the regulations, the final document is required to contain specific information including:

8.16. A description of the removal procedures used and a description of areas where removal was conducted, and the materials removed.

We do not see where this information has been included in the copy of the Quest report that we received.

### ***Failure to Comply With Paragraph §8.18***

According to the regulations, the final document is required to contain specific information including:

8.18. A description of the waste management procedures used, including handling and final disposition of wastes.

Quest failed to comply with this paragraph and stated in its report:

**8 Description of Waste Management:** Paul Davis Restoration provided QUEST with a copy of their January 25, 2011 Meth Lab Clean Up Letter (see attached), which stated that no waste was disposed of as contaminated waste from the subject site.

Although no such cleanup letter was included in the Quest report we received, it is difficult if not impossible to understand how an entire residence can be decontaminated without generating ANY waste materials.

### ***Failure to Comply With Paragraph §8.20***

According to the regulations, the final document is required to contain specific information including:



8.20. Photographic documentation of pre- and post-decontamination property conditions, including cooking areas, chemical storage areas, waste disposal areas, areas of obvious contamination, sampling and decontamination procedures, and post-decontamination conditions.

Quest failed to comply with this provision and offered a few limited views of some of the areas at the subject property.

### **Failure to Comply With Paragraph §8.21**

According to the regulations, the final document is required to contain specific information including:

8.21. Consultant statement of qualifications, including professional certification or qualification as an industrial hygienist as defined in section 24-30-1402, C.R.S., and description of experience in assessing contamination associated with methamphetamine labs.

### **Personnel and Fraudulent Representations**

State regulations 6 CCR 1014-3 require the assessment work to be performed by an Industrial Hygienist and defines Industrial Hygienist exclusively as:

“Industrial Hygienist” means an industrial hygienist as defined in Section 24-30-1402, C.R.S.

Mr. Woellner is not an Industrial Hygienist. Mr. Woellner has never been an Industrial Hygienist. In his May 12, 2011 report, Mr. Woellner claims to be an Industrial Hygienist. In fact, in the recent past, Mr. Woellner has emphatically stated that he was **not** an Industrial Hygienist. For example, on or about September 25, 2007 while on a mould assessment project in Rifle, Colorado, I had openly criticized Mr. Woellner for his complete lack of technical knowledge in moulds and his failure to follow even the most fundamental tenets of Industrial Hygiene. In front of several witnesses that day, Mr. Woellner defended his actions stating “I’m **not** an Industrial Hygienist, and so I’m not required to follow Industrial Hygiene protocols.” And indeed, Mr. Woellner is not an Industrial Hygienist and has no legitimate knowledge of Industrial Hygiene and is not permitted by State regulations to perform the assessments at illegal drug laboratories.

On November 19, 2009, during oral testimony,<sup>23</sup> while under oath, Mr. Woellner again underscored his complete lack of knowledge in Industrial Hygiene by failing to be capable of even defining “*Industrial Hygiene*.” Every legitimate Industrial Hygienist is capable of defining “Industrial Hygiene” without any difficulty. Industrial Hygiene is the science and art devoted to the recognition, evaluation, anticipation and control of human stressors in the environment. There has never been any other definition, yet when Mr. Woellner (who is a geologist) was asked this question, he responded:

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<sup>23</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC *et al*, November 19, 2009.



**Industrial hygiene is a fairly broad category. The actual words "industrial hygiene" mean the cleanliness of an industrial setting.**

Industrial Hygiene has nothing whatever to do with the cleanliness of an industrial setting. Mr. Woellner is so entirely incompetent in the knowledge and scope of Industrial Hygiene matters, he cannot even correctly identify what constitutes *Industrial Hygiene*.

Furthermore, during that testimony, Mr. Woellner completely and entirely failed to define other aspects of Industrial Hygiene. For example, toxicology is inherently an aspect of comprehensive Industrial Hygiene. I have taught and lectured on the topic of toxicology at university level, and can state definitively that "toxicology" has a very simple definition that is globally accepted: Toxicology is the study of the absorption, distribution and elimination of chemical substances in the body. Mr. Woellner, who claims to have expertise in toxicology was incapable of defining "toxicology."

**Q (by Counsel): Can you define for me what you belief (sic) toxicology is?**

**A (by Woellner): As an expert in the field, we are expected to know the reason why mold is of concern and have a basic knowledge of toxicology to be able to interpret the data and make sure that our views, opinions, and protocols are consistent with standard practices in the industry. So that I would certainly not purport to be a toxicologist, I have, and experts in the field of industrial hygiene and mold industry, are expected to have and have varying degrees of expertise in toxicology. Again, that's pertaining only to our field of study and not toxicology and from a medical physician's perspective.**

I am certified in various aspects of fraudulent behavior<sup>24</sup> including forensic interviews, and the detection of deceptive behaviors.<sup>25,26</sup> The above answer not only is entirely incorrect, (and indeed is a nonresponsive answer) but it is also a classic example of a deceptive answer in that it is evasive, and skirts the issue with the intent to obfuscate.

This issue is important in the South Johnson Street property, since the overt fabrications made by Mr. Woellner on this property, are part of an established trait of deception used by Mr. Woellner not just on this project, as an isolated incident, but rather is a behavior that FACTs has observed and documented on every project wherein we have encountered Quest Environmental and Mr. Woellner.

In the current report, Mr. Woellner claims to be an Industrial Hygienist. However, we have observed Mr. Woellner, in the past, make several claims to his credentials which have been unsupported and have not withstood objective fact-checking. For example, during testimony under oath,<sup>27</sup> Mr. Woellner claimed that while he was with a laboratory

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<sup>24</sup> Fraudulent Document Assessment, Lakewood, CO 2008

<sup>25</sup> Certified in the Reid Technique Interviews and Interrogation, Boulder CO, 2006

<sup>26</sup> Drug Interdiction and Investigations, through Multijurisdictional Counter Drug Task Force, Florida National Guard and St. Petersburg College, Florida. September 2004

<sup>27</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC *et al*, November 19, 2009.



called, Esstek, he was so highly qualified that the AIHA<sup>28</sup> awarded Mr. Woellner a “CIH equivalency” thereby giving Esstek AIHA Accreditation. However, I interviewed the legitimate Certified Industrial Hygienist of Esstek, (Mr. Robert Cordova) who informed me that Esstek had already received AIHA accreditation prior to Mr. Woellner’s hire date with the firm. Furthermore, Mr. Cordova informed me that when he (Mr. Cordova) was hired by Esstek, it was specifically because he (Mr. Cordova) was a CIH (Certified Industrial Hygienist) and his role with Esstek was to obtain AIHA accreditation for the laboratory in asbestos aspects. (I was told the Esstek Lab was only ever certified for asbestos, nothing else.) Mr. Cordova informed me that he (Mr. Cordova) successfully obtained the accreditation due to his status as a CIH, and not to any “CIH equivalency” awarded to Mr. Woellner, as claimed. Mr. Cordova informed me that he had never heard of the AIHA ever granting “CIH Equivalence.”

Indeed, even the AIHA would not support Mr. Woellner’s claims. In 2009, I contacted Mr. Christian Sacdalan, Laboratory Accreditation specialist for the AIHA, and attempted to confirm Mr. Woellner’s claims. However, Mr. Sacdalan, informed me that he had never heard of a “CIH equivalent” exception being granted to anyone. Furthermore, the designation “CIH” is awarded by the American Board of Industrial Hygiene (ABIH) and not the AIHA at all.

Although I have not made an effort to check every claim made by Mr. Woellner, in his several documents, it has been my experience that Mr. Woellner frequently, patently and intentionally fabricates much of what he states. For example, on Page 51, of the above referenced oral testimony under oath, Mr. Woellner stated:

**In the United Kingdom, there is a publication -- private organization called Risk Management Bulletin. I am on the editorial board, which means I both generate numerous articles for them and review others in the fields. I'm their environmental expert on that editorial board.**

The Risk Management Bulletin is printed by Oxygen (Insurance) in the United Kingdom. On December 8, 2009, I contacted Mr. Keith Buckle, Risk Manager for The Risk Management Bulletin. I asked Mr. Buckle if he could provide me with a list of the Editorial Board upon which Mr. Woellner claims to be a member and a list of their subject matter experts (SMEs) on that board. Here is Mr. Buckle’s email reply to my request (December 9, 2009):

Hi Caoimhín,  
The Risk Management Bulletin is just an informal publication giving basic information on hot topics to our clients. There is no formal editorial team and we would not claim to give a high level of technical guidance in the bulletins more general awareness.

Mr. Woellner’s fabrications are not limited to his false claims of credentials. In the above referenced oral testimony, Mr. Woellner, while under oath, was asked if he was ever barred from giving testimony, Mr. Woellner lied and stated:

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<sup>28</sup> American Industrial Hygiene Association



**Q. (by Counsel): Mr. Woellner, have you ever been barred from giving testimony either at an arbitration or hearing or any other litigated matter, regarding the field of industrial hygiene?**

**A. (by Mr. Woellner) No, I don't believe I have.**

M. Woellner's answer under oath is interesting for two reasons:

Reason 1:

On July 17, 2008, in my presence in the matter of "913 Industrial Park / Colorado Casualty (Claim Number 902597160002)," Mr. Woellner was barred from giving testimony. During that testimony, Mr. Woellner was claiming that he was an Industrial Hygienist (even though he later claimed that he was not an Industrial Hygienist). Due to my testimony in the above stated matter, which involved the technical aspects of a clandestine drug laboratory, the presiding judge determined that Mr. Woellner lacked the technical expertise needed to give an expert opinion on chemical matters in Industrial Hygiene related clandestine operations, and barred Mr. Woellner from giving such testimony.

Reason 2:

The answer exhibits knowingly deceptive behavior by the inclusion of a subjective qualifier "I don't *believe* I have." Persons exhibiting deception attempt to leave a retreat route by the constant and inappropriate inclusion of qualifiers to otherwise straight forward "Yes" or "no" questions. An honest individual answering such a simple question would provide the simple answer "No" and would not attempt to qualify the simple answer.

In a more recent case in just the last two weeks of the preparation of this discussion, involving Mr. Woellner who was representing himself as an expert in mould related issues, FACTs demonstrated that Mr. Woellner "interpreted" some mould "testing" that was performed, by merely plagiarizing text from the internet that was identified as copyright protected material, and pasting the information into his "report."

It is important to note that although Mr. Woellner claims to have expertise in Industrial Hygiene, and in the South Johnson Street property documentation has attempted to present himself as qualified Industrial Hygienist by his membership in an organization called the "Colorado Association of Meth and Mold Professionals," Mr. Woellner has no legitimate expertise in either methamphetamine related issues or mould. Regarding mould related issues, in oral testimony in a case wherein Mr. Woellner presented himself as an expert in mycology (the study of moulds) – Mr. Woellner was actually entirely unable to even define<sup>29</sup> *Mycology*.

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<sup>29</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC *et al*, November 19, 2009.



On Page 25 of the referenced oral testimony, under oath Mr. Woellner made the following response.

**Q. Can you define what for me what you believe mycology is?**

**A. Mycology is a study of the compounds generated by the microorganisms during their lifecycle.**

Mycology is singularly and exclusively the study of fungi. Mycology is not the study of “compounds generated by the microorganisms during their lifecycle.” Mr. Woellner’s incompetence in such issues is equal to his brazen dishonesty.

Mr. Woellner’s dishonesty is well documented not just from the above references, but elsewhere, including Mr. Woellner’s false representations to regulatory personnel. For example, on March 11, 2008 FACTs performed a critical review of a fatally flawed report<sup>30</sup> prepared by Mr. Woellner and Quest. In that Critical Review, FACTs identified 35 elements of Colorado’s “Methlab” Regulations with which Mr. Woellner failed to comply during an assessment of an identified illegal drug laboratory. (Specifically, but as a side-bar to the gravamen of this point) we found that the Quest work failed to comply with the following regulatory sections:

- Section 4.0 Preliminary Assessment
- Paragraph 4.1
- Paragraph 4.2
- Paragraph 4.3
- Paragraph 4.4
- Paragraph 4.5
- Paragraph 4.6
- Paragraph 4.7
- Paragraph 4.8
- Paragraph 4.9
- Paragraph 4.10
- Paragraph 4.11
- Paragraph 4.12
- Paragraph 4.14
- SECTION 6.0
- Paragraph 6.1
- Paragraph 6.2
- Appendix A – Prohibition of Sampling from Porous Materials
- Paragraph 6.6
- Appendix A - Soil Contamination
- Section 8 – Final Documentation
- Paragraph 8.1
- Paragraph 8.2
- Paragraph 8.3
- Paragraph 8.4
- Paragraph 8.5
- Paragraph 8.6

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<sup>30</sup> March 5, 2008, Carrington Mortgage Services c/o Joe Powers ReMax Alliance, 1543 Wazee, Suite A, Denver, CO 80202, Re: Residence at 131 South Benton Street in Lakewood, Colorado, Suspected Clandestine Methamphetamine (“Meth”) Lab Preliminary Assessment Inspection and Sampling.



- Paragraph 8.7
- Paragraph 8.8
- Paragraph 8.9
- Paragraph 8.13
- Paragraph 8.14
- Paragraph 8.20
- Paragraph 8.21
- Paragraph 8.22
- Paragraph 8.23
- Paragraph 8.24

In that report, Mr. Woellner made false representations to Mr. Craig Sanders, (Jefferson County Department of Health) and Ms. Coleen Brisnehan with the Colorado Department of Public Health and Environment. In his letter, Mr. Woellner attempted to mislead Mr. Sanders and Ms. Brisnehan by falsely informing them that:

*QUEST contacted Craig Sanders of Jefferson County Health Department (303-271-5759) and Colleen Brisnehan of the Colorado Department of Public Health and Environment (303-692-3357) to discuss the property, sample results and findings. Each of the health department representatives were briefed on the project conditions, and each representative stated that since the samples collected by FACT and QUEST were all below the State clearance criteria, the preliminary assessment results meet the State clearance criteria.*

However the presentation was knowingly false, since in the letter referenced by Mr. Woellner, discussing our sample results, FACTs explicitly described exactly the opposite to that which he informed Ms. Brisnehan and Mr. Sanders. FACTs actually stated:<sup>31</sup>

*“Although the degree and extend [sic] of contamination throughout the property remains unknown, our sampling did confirm that the concentrations of methamphetamine in the basement were sufficiently elevated that the results indicated that the methamphetamine concentrations would have been approximately three times greater than permitted by State regulations, if the sampling had been conducted pursuant to final clearance sampling.”*

Regarding that same property and his report titled “Residence at 131 South Benton Street in Lakewood, Colorado Suspected Clandestine Methamphetamine (“Meth”) Lab Preliminary Assessment Inspection and Sampling” on July 17, 2008, Mr. Woellner, in front of a witness, stated to me “I never even called the Benton report a “Preliminary Assessment,” and therefore, I wasn’t required to follow the requirements of a Preliminary Assessment.”

FACTs would be prepared to provide numerous examples of similar acts of dishonesty and misrepresentations, if requested.

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<sup>31</sup> Cursory Industrial Hygiene Assessment of an Unoccupied Property In the Context of Methamphetamine Contamination At: 131 South Benton Street, Denver, Colorado, Prepared for: Sonya and Ivan Lopez, 4899 South Dudley Street, Unit B-21, Denver, CO 80123, Prepared by Forensic Applications, Inc. February 15, 2008



These issues challenging Mr. Woellner's honesty and integrity are pertinent for the South Johnson Street property, since we have similarly observed overt fabrications and falsifications made to the public record.

In this case, Mr. Woellner claims to be an Industrial Hygienist (even though in the past he emphatically stated he is NOT an Industrial Hygienist). And he claims to meet the regulatory requirements of Section 24-30-1402, of the Colorado Revised Statutes.

Let's review Section 24-30-1402, of the Colorado Revised Statutes. In 1997, I was the Industrial Hygiene Technical Representative for Colorado State Representative Mark Paschall in the crafting of the language of Senate Bill 97-119 which defined, for the State of Colorado, the term "Industrial Hygienist" and the practice of "Industrial Hygiene." Senate Bill 97-119 was promulgated, with my suggested language, and was codified in Colorado Revised Statutes Title 24, Article 30, Part 1402. That statute reads as follows:

(2.2) "Industrial hygienist" means an individual who has obtained a baccalaureate or graduate degree in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science from an accredited college or university.

Mr. Woellner has not obtained a baccalaureate or graduate degree in industrial hygiene biology, chemistry, engineering, physics, *or a closely related physical or biological science* from an accredited college or university. Mr. Woellner is a geologist geology is the study of rocks; rocks are not closely related to living biological systems. The statute continues with

The special studies and training of such individual shall be sufficient in the cognate sciences to provide the ability and competency to:

(a) Anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being;

There is nothing within Mr. Woellner's training as a geologist that would provide him with the ability and competency to anticipate and recognize the environmental factors and stresses associated with work and work operations and to understand their effects on individuals and their well-being. Geology is an entirely unrelated field.

Indeed, Mr. Woellner as described above cannot even define "Industrial Hygiene" and doesn't even understand the language used to recognize the environmental factors and stresses associated with Industrial Hygiene work and work operations and to understand their effects on individuals and their well-being. Pathology and pathological responses are part and parcel of the practice of Industrial Hygiene; during testimony,<sup>32</sup> Mr. Woellner failed to properly define "pathology"

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<sup>32</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC *et al*, November 19, 2009.



**Q. Can you tell me what your definition of pathology is?**

**A. Pathology is how those various compounds and materials impact the body and affect other organisms, such as humans.**

Pathology is exclusively “The study of the nature of disease...”<sup>33</sup> this definition is similar to other references such as that found in Mosby’s Medical Dictionary which states: “Pathology, the study of the characteristics, causes, and effects of disease...”<sup>34</sup>

The State definition of an Industrial Hygienist continues with the statement that the training thus received should be sufficient in the cognate sciences to provide the ability and competency to:

(b) Evaluate on the basis of training and experience and with the aid of quantitative measurement techniques the magnitude of such environmental factors and stresses in terms of their ability to impair human health and well-being;

Not only does Mr. Woellner not possess such skills, Mr. Woellner was completely unaware that such assessments ARE the basis of Industrial Hygiene. During deposition,<sup>35</sup> under oath, when given the opportunity, Mr. Woellner failed to explain the role of an Industrial Hygienist and instead made an abjectly false statement about the role of the Industrial Hygiene profession. In the referenced deposition, Counsel posed the question:

**Q. When you talk about a full exposure assessment, is there a specific standard or set of guidelines you use to guide you in executing a full exposure assessment?**

Mr. Woellner responded incorrectly with:

**A. Very few industrial hygienists do full exposure monitory (sic). That's typically done by medical staff in hospitals.**

On a daily basis, routinely, across the globe, Industrial Hygienists perform “full exposure monitoring.” It is precisely what Industrial Hygienist do to fulfill the “recognition, evaluation, and control of human stressors in the environment.” In over 23 years of practicing Industrial Hygiene, involving many medical staff across the country, including physicians who were Industrial Hygienists themselves, I have never encountered a single situation ever where the “medical staff in hospitals” have EVER conducted exposure monitoring – that is not their job, that is the job of the Industrial Hygienist, and apparently a geologist is not aware of that.

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<sup>33</sup> W.A.D. Anderson Anderson’s Pathology 8<sup>th</sup> Edition (1985) Volume 1, page xi, Preface, ISBN 0-8016-0191-6

<sup>34</sup> Mosby’s Medical Dictionary, 5<sup>th</sup> Edition, 1998, ISBN 0-8151-4800

<sup>35</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC *et al*, November 19, 2009.



Similarly, during the same deposition, Mr. Woellner failed to properly define another aspect in the cognate sciences necessary to evaluate the magnitude of environmental factors and stresses in terms of their ability to impair human health and well-being; namely “pathophysiology”

**Q. Do you have any expertise in the field of pathophysiology?**

**A. Pathophysiology, I guess, would be a combination of pathology and physiology. How the various insults in the environment would affect an organism such as a human. I guess it would be a very sliver of expertise. I wouldn't say that most of us have much of that expertise other than the physicians and those that specialize in the medical aspects of microorganisms and microflora.**

Mr. Woellner’s lack of knowledge of Industrial Hygiene was wrong yet again. Pathophysiology is the study of the relationship of homeostasis and a pathological process. Pathophysiology is not the practice of medicine. And pathophysiology is far from a “sliver of expertise” but rather is well within the comprehensive practice of Industrial Hygiene, and especially as it relates to toxicology.

Mr. Woellner’s background in geology has entirely ill equipped him to address human exposures as he exhibited during more recent testimony, approximately one year ago,<sup>36</sup> Mr. Woellner’s incompetence in Industrial Hygiene became so convoluted that it began to border on hilarity, as Mr. Woellner scrambled (without success) to try and appear knowledgeable in Industrial Hygiene.

In that testimony, Mr. Woellner claimed that the genus of mould called *Stachybotrys* was “extremely rare.” In fact, as any legitimate Industrial Hygienist involved in mould assessments knows, every house, every building and every occupiable structure in the U.S. contains *Stachybotrys* and humans are exposed to this organism on a daily basis. Mr. Woellner’s incompetence in Industrial Hygiene went to soaring new heights when he then testified that *Aspergillus* was a species (*Aspergillus* is not a species) and similarly he testified that *Penicillium* was a species (*Penicillium* is not a species either); he claimed that *Serpula lacrymans* (a new term he had learned from my reports), colonizes wood and then this magical organism sends out it’s “roots” to find moisture. Indeed, the more Mr. Woellner tried to impress the arbitration board with his false knowledge of Industrial Hygiene, the more he wound himself up in his own creations. (In the end, my testimony prevailed and our client was awarded over 1.5 million dollars, thanks largely to Mr. Woellner’s gross incompetence in pretending to be an Industrial Hygienist).

In the last few weeks, Mr. Woellner again got out of his depth and attempted to practice Industrial Hygiene and characterize human exposures to ultrafine particles and methyl diisocyanate at a property using the US EPA TO-15 method. Unfortunately, due to Mr. Woellner’s legendary incompetence in Industrial Hygiene, he was unaware of the fact that the TO-15 method cannot detect or characterize either UFPs or diisocyanate (in that project, his client, an insurance carrier wisely replaced his with another consultant).

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<sup>36</sup> In the Matter of: Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC, et al. Reporter's Transcript of Proceedings Volume 37, Date Taken: August 18, 2010



This is not an isolated incident, on another project wherein he claimed he was NOT an Industrial Hygienist (and then later claimed that he actually WAS an Industrial Hygienist), Mr. Woellner rose to a new level of incompetence when he became the only person on the planet to attempt to perform an Industrial Hygiene indoor mould assessment using an combustible gas meter and measuring for hydrogen sulfide. Mr. Woellner originally defended his bizarre junk-science action by claiming that the use of such a meter during a mould assessment was “standard industry practice.” Although Mr. Woellner was never able to identify the standard, Mr. Woellner later, under oath,<sup>37</sup> denied using the meter during his assessment in the following exchange:

**Q (by Counsel). Do you ever request during your air sampling that samples be tested for hydrogen sulfide as part of your investigation?**

**A (by Woellner). No. I have not.**

**Q (by Counsel). As part of your air sampling, at any point in time during the project, did you ever conduct air sampling and request that oxygen content be assessed as part of your investigation?**

**A (by Woellner). No. I have not.**

This testimony placed Mr. Woellner in a very awkward position since in his June 6, 2007 report (which was the subject of the sworn oral testimony) Mr. Woellner had written:

*During Quest’s inspection, a BW Technologies GasAlertMicro multi gas trace gas detector and a Vulcain SP-IAQ4 trace gas monitor were utilized to measure airborne concentrations of combustible gases (%LEL), hydrogen sulfide (ppm), carbon monoxide (ppm), carbon dioxide (ppm) oxygen (%), temperature (degree F) and relative humidity (%). No combustible gases (0% LEL), hydrogen sulfide (0ppm) or carbon monoxide (0 ppm) levels were detected. The residences contained 20.9 % oxygen, between 480 and 981 ppm carbon dioxide, ...*

Mr. Woellner must have realized the predicament he placed himself in by giving false testimony under oath, because he then changed his story AGAIN and during a second round of testimony,<sup>38</sup> Mr. Woellner explained that, contrary to his original testimony he actually did perform the sampling, but (contrary to his original report) he only did it because he was performing Confined Space monitoring. However, during my testimony,<sup>39</sup> this explanation too became troublesome for Mr. Woellner since I testified that there were no confined spaces on the project during which he used his gas meter and hydrogen sulfide meter.

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<sup>37</sup> Transcript of the Testimony of Robert Woellner in the Matter of Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC et al, November 19, 2009.

<sup>38</sup> In the Matter of: Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC, et al. Reporter’s Transcript of Proceedings Volume 37, Date Taken: August 18, 2010

<sup>39</sup> In the Matter of: Fidelity and Deposit Company of Maryland v. White River Townhomes, LLC, et al. Reporter’s Transcript of Proceedings Volume 37, Date Taken: August 18, 2010



## **Colorado Association of Meth and Mold Professionals**

In his report Mr. Woellner tries to associate his credentials with a private, commercial organization called the “Colorado Association of Meth and Mold Professionals” (CAMMP). This is an organization that has attempted (unsuccessfully) to gain credibility amongst legitimate professionals associated with methamphetamine and mould related issues. Generally, CAMMP is viewed by legitimate Industrial Hygienists and others involved in the indoor mould issue as an irrelevant fringe group of untrained practitioners.

It is important to note that the last time we checked, Mr. Peter Cappel, with Gobble Hayes Partners was a board member on that private, commercial venture.

However, more importantly, the last time we checked, Ms. Coleen Brisnehan, with the Colorado Department of Public Health and Environment was also personally listed as a Board Member with this small fringe group. Ms. Brisnehan’s association as a board member becomes a conflict-of-interest issue since, ostensibly, Ms. Brisnehan’s involvement in this project was to ensure that the two contractors at the residence had complied with State regulations.

It would be yet another blow to CAMMP and an embarrassment to Ms. Brisnehan, if it were discovered that, yet once again, it’s members have been shown to lack the professional competency to follow the State of Colorado methamphetamine regulations,

There is no part of Mr. Woellner’s training or experience that provides him with ANY legitimate claim to expertise or practice of Industrial Hygiene. In any event, the documentation provided in the Quest report failed to include the consultants statement of qualification as required.

### **Failure to Clear the Ventilation System (*viz*: Section 6.0)**

According to State Regulation 6 CCR 1014-3, following decontamination, the Industrial Hygienist is required to collect samples from the ventilation system to confirm decontamination. Section 6.0 of the State regulations generally addresses post decontamination verification sampling thusly:

6.1. Locations of samples shall be based on information gathered during the preliminary assessment. Samples shall be collected from:

6.1.1. Areas expected to have the highest levels of contamination, such as cooking areas, chemical storage areas, and waste disposal areas.

6.1.2. Areas where contamination may have migrated, such as adjacent rooms or units, common areas, and ventilation systems.

In their May 12, 2011 report titled “**Re: Property at 4893 South Johnson Street in Littleton, CO 80123 Suspected Clandestine Methamphetamine (“Meth”) Lab Remediation Post-Mitigation Clearance Assessment Inspections and Sampling Surveys**” Quest falsely states that



...QUEST conducted post-remediation / clearance sampling surveys for meth in accordance with CDPHE 6 CCR 1014-3, Section 6.0. The following observations and findings are provided in the order specified within the Colorado meth regulations (CDPHE 6 CCR 1014-3, Section 8.0):

No clearance samples were ever collected from the ventilation system in a manner consistent with State regulations.

During their activities, in violation of Section 6.1.1 and Appendix A, Mr. Woellner collected a single 100 cm<sup>2</sup> sample from the interior of the ventilation system. Mr. Woellner also collected a sample from an outside surface of the ventilation system ostensibly to represent the inside of the ventilation system (the sample otherwise had no apparent utility). The outside surface of a ventilation system does not represent the ventilation system. If anything at all, such a sample may represent the room in which that component is located.

During our August 31, 2011 visit to the South Johnson Street property, FACTs collected a sample from the interior of the ventilation system. The results of the FACTs sample indicated that the contamination level in the system was at least 2.04 µg/100cm<sup>2</sup>.

It is well established knowledge in the Industrial Hygiene and medical professions that the use of methamphetamine in a home results in elevated exposures to the occupants via airborne migration. When methamphetamine is even just smoked, between 80%<sup>40</sup> and half<sup>41</sup> of the substance is released from the user's pipe. Of that material which is inhaled, between 33%<sup>42</sup> and 10%<sup>43</sup> of the nominal dose is not absorbed into the body, but rather exhaled back into the ambient air.

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<sup>40</sup> Cook CE, *Pyrolytic Characteristics, Pharmacokinetics, and Bioavailability of Smoked Heroin, Cocaine, Phencyclidine, and Methamphetamine* (From: Methamphetamine Abuse: Epidemiologic Issues and Implications Research Monograph 115, 1991, U.S. Department Of Health And Human Services Public Health Service Alcohol, Drug Abuse, and Mental Health Administration National Institute on Drug Abuse)

<sup>41</sup> Cook CE, Jeffcoat AR, Hill JM, et al. *Pharmacokinetics of Methamphetamine Self-Administered to Human Subjects by Smoking S-(+)-Methamphetamine Hydrochloride*. Drug Metabolism and Disposition Vol. 21 No 4, 1993 as referenced by Martyny JW, Arbuckle SL, McCammon CS, Erb N, Methamphetamine Contamination on Environmental Surfaces Caused by Simulated Smoking of Methamphetamine (The publication of this study is currently pending. Copies of the study are available from the Colorado Alliance for Drug Endangered Children.)

<sup>42</sup> Harris DS, Boxenbaum H, Everhart ET, Sequeira G, et al, *The bioavailability of intranasal and smoked methamphetamine*, Pharmacokinetics and Drug Disposition, 2003;74:475-486.)

<sup>43</sup> Cook CE, Jeffcoat AR, Hill JM, Pugh DE, et al *Pharmacokinetics of methamphetamine self-administered to human subjects by smoking S-(+)-methamphetamine hydrochloride* Drug Metabolism and Disposition, Vol 21, No. 4, pp. 717-723, 07/01/1993



Work conducted by Industrial Hygienists at the National Jewish Hospital<sup>44</sup> in Denver indicate that a single use of methamphetamine, by smoking, could result in an average residential area ambient airborne concentration of methamphetamine ranging from 35 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) to over 130  $\mu\text{g}/\text{m}^3$ . These authors found that smoking methamphetamine just once in the residence can result in surfaces being contaminated with methamphetamine. The authors concluded:

*"If methamphetamine has been smoked in a residence, it is likely that children present in that structure will be exposed to airborne methamphetamine during the "smoke" and to surface methamphetamine after the 'smoke'."*<sup>45</sup>

Since it is the purpose of the forced air ventilation system to move air throughout the structure, and the furnaces, as evidenced by the sample collected from the duct interior, which conclusively contained elevated concentrations of methamphetamine, we conclude the furnace remains an effective mechanism of dissemination of methamphetamine and may be a continued source of contamination until appropriately addressed.

The results of the furnace sample alone would lead a reasonable person, trained in aspects of methamphetamine laboratories, to conclude the *presence* of widespread elevated methamphetamine contamination throughout the entire occupied space, all other sample results notwithstanding, and in the absence of any sample result for any specific location.

Therefore, it is for this reason that FACTs confidently concludes that, based on just this sample alone, there is high probability of elevated concentrations of methamphetamine throughout the residence including all chattels that were brought into the property by the current occupant and all remaining areas that have not been confirmed as contaminated by sampling.

### ***Failure to Collect Lawful Post Mitigation Clearance Samples***

In their May 12, 2011 report titled **“Re: Property at 4893 South Johnson Street in Littleton, CO 80123 Suspected Clandestine Methamphetamine (“Meth”) Lab Remediation Post-Mitigation Clearance Assessment Inspections and Sampling Surveys”** Quest falsely states that

...QUEST conducted post-remediation / clearance sampling surveys for meth in accordance with CDPHE 6 CCR 1014-3, Section 6.0. The following observations and findings are provided in the order specified within the Colorado meth regulations (CDPHE 6 CCR 1014-3, Section 8.0):

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<sup>44</sup> Martyny JW, Arbuckle SL, McCammon CS, Erb N, *Methamphetamine Contamination on Environmental Surfaces Caused by Simulated Smoking of Methamphetamine* (The publication of this study is currently pending. Copies of the study are available from the Colorado Alliance for Drug Endangered Children.)

<sup>45</sup> Martyny JW, Arbuckle SL, McCammon CS, Erb N, *Methamphetamine Contamination on Environmental Surfaces Caused by Simulated Smoking of Methamphetamine* (The publication of this study is currently pending. Copies of the study are available from the Colorado Alliance for Drug Endangered Children.)



No final verification samples were collected from the property in a manner compliant with State regulations.

None of the samples that were collected may lawfully be used for clearance purposes.

### ***Failure To Test the Mandatory Hypothesis***

According to Colorado Regulations, a legitimate and authorized Industrial Hygienist is required to perform hypothesis testing during post mitigation assessments.

According to Colorado Regulations:

#### **Post-Decontamination sampling**

In post-decontamination sampling, the hypothesis is made that the area is non-compliant, and data is collected to test the hypothesis. The role of the consultant in post decontamination sampling is **not** to demonstrate that the area is “clean,” but rather, **using biased sampling**, to diligently attempt to prove that the area is **not** clean. The lack of data supporting the hypothesis leads the consultant to accept the null hypothesis and conclude that the area is compliant.

#### **Decision Statement**

If, **based on the totality of the circumstances**, the consultant finds that insufficient evidence exists to support the hypothesis that any given area is non-compliant, that area shall be deemed to be compliant with section 25-18.5-103 (2), C.R.S., and shall be released. If objective sampling data indicates contamination is less than the cleanup level, that data may be used as *prima facie* evidence that insufficient evidence exists to support the hypothesis that any given area is non-compliant.

That is, the Industrial Hygienist MUST determine if there is ANY evidence to support the hypothesis that the area is noncompliant and if there is no evidence, then and only then, shall the Industrial Hygienist collect samples as *prima facie* evidence that insufficient evidence exists to support the hypothesis that any given area is non-compliant.

In this case, there was such widespread filth and historical dust and grime on virtually ALL surfaces, that no legitimate Industrial Hygienist would have collected ANY samples. Instead, a legitimate Industrial Hygienist would have looked at the subject areas, and state that the presence of heavy, historical dirt and grime is conclusively sufficient evidence to conclude that NO cleaning had been performed, and therefore, there is SUFFICIENT EVIDENCE to support the hypothesis that the area is noncompliant.

In this case, Mr. Woellner failed to follow State Regulations, and in spite of vast overwhelming visible evidence to the contrary, Mr. Woellner collected samples (and did so in a manner that was not consistent with State Regulations).

### ***Failure to Collect Bias Samples As Required***

Because Mr. Woellner has no documentable knowledge in the assessment of clandestine drug laboratories, and because Mr. Woellner is not an Industrial Hygienist and has NO expertise in such sample collection (and indeed, as demonstrated above, invents his own



make-believe sampling procedures), Mr. Woellner utterly failed to recognize which areas would represent bias and which areas would not. As a result, biased samples were not collected.

The following samples failed to meet State Regulatory requirements for sampling, because those locations, in violation of Section 6.1.1 and in violation of the Attachment to Appendix A, had intrinsically LOW probabilities of being contaminated.

| Sample Location                                 | Sample Date |
|---|-------------|
| South attic gable                               | 4/25/11     |
| north attic roof vent                           | 4/25/11     |
| crawlspace "sill stud"                          | 4/25/11     |
| Basement laundry room ceiling                   | 4/25/11     |
| Hall return air grill                           | 4/25/11     |
| living room top of the fireplace mantle         | 4/25/11     |
| garage ceiling                                  | 4/25/11     |
| garage southwest corner floor                   | 4/25/11     |
| garage south wall by the light switch           | 4/25/11     |
| garage south wall shelf                         | 4/25/11     |
| garage west wall                                | 4/25/11     |
| garage north wall by door                       | 4/25/11     |
| Garage south wall by light switch and side door | 5/6/11      |
| Cabinet door front and hinge                    | 8/23/11     |

Table 1  
Table of Samples Prohibited by Virtue of Low Probability

### ***Collection of Samples From Prohibited Surfaces***

According to Appendix A of the Colorado Regulations:

Wipe sampling shall not be used to demonstrate that cleanup levels have been met on porous surfaces.

In the past, on several occasions,<sup>46,47</sup> Mr. Woellner has gotten caught violating this same regulatory requirement. Therefore, these various violations were knowingly and willingly performed by Mr. Woellner.

The following Samples were collected from prohibited porous surfaces by Mr. Woellner:

<sup>46</sup> FACTs Critical Review of Fatal Flaws, Errors and Omissions, of Quest Environmental Services report to Ivan and Sonya Lopez, 4899 South Dudley Street, Unit B-21 Denver, CO 80123 RE: 131 South Benton Street, Denver, Colorado March 110, 2008

<sup>47</sup> FACTs Critical Review of Fatal Flaws, Errors and Omissions, of Quest Environmental Services. Prepared for Ms Georgina Miller, 16275 Mt. Vernon Road, Golden, CO 80401



| Sample Location                       | Sample Date |
|---------------------------------------|-------------|
| crawlspace "sill stud"                | 4/25/11     |
| N attic gable                         | 4/25/11     |
| crawlspace SW corner                  | 4/25/11     |
| crawlspace SE corner                  | 4/25/11     |
| crawlspace floor joist                | 4/25/11     |
| furnace room                          | 4/25/11     |
| garage ceiling                        | 4/25/11     |
| garage southwest corner floor         | 4/25/11     |
| garage south wall by the light switch | 4/25/11     |
| garage south wall shelf               | 4/25/11     |
| garage west wall                      | 4/25/11     |
| garage north wall by door             | 4/25/11     |
| Basement main room                    | 4/25/11     |
| S attic gable                         | 4/25/11     |
| attic sw underside of roof decking    | 4/25/11     |

**Table 2**  
Table of Samples Collected from Prohibited Surfaces

Therefore, ignoring for a moment, that NONE of the samples of the 25 samples collected as verification samples had a valid foundation for collection, only three of those samples collected by Mr. Woellner could have been used for clearance. This what happens when unauthorized personnel pretend to be an Industrial Hygienist and, without authority, engage in Industrial Hygiene.

### ***Invalid Samples Collected During Second Visit***

Although a cursory visual inspection would have been all that was necessary to demonstrate the garage had not been cleaned, Quest reported that one of its samples collected from this area failed. Therefore, the remediation contractor would have been required to re-enter the garage and continue to clean until such time that the work was done correctly.

Following the remediation, in the absence of other challenges to the primary hypothesis, the Industrial Hygienist is required by regulation to clear the area with a specific number of samples (a minimum of five), of a specific size (a minimum of 500 cm<sup>2</sup>) from specific locations (high probability of contamination, nonporous surfaces).

In this case, Quest violated each of the above provisions. After the garage was supposedly re-cleaned (which it was not), Quest collected a single 100 cm<sup>2</sup> sample from a prohibited surface (the porous concrete garage floor), that had a low intrinsic probability of contamination. Based on that one invalid sample, Quest arbitrarily made the



conclusion that the garage passed. However, the sample collected by FACTs on August 31, conclusively demonstrated that methamphetamine levels in the garage are *at least* 2.45 µg/100cm<sup>2</sup> and is therefore, STILL noncompliant.

### ***Invalid Samples Collected During Third Visit***

For reasons not clear to FACTs, Coleen Brisnehan and Robert Woellner returned to the residence on August 23, 2011 to perform more (invalid) sampling. None of that sampling could be used for clearance purposes as explained below.

As already described, the role of the Industrial Hygienist in post decontamination sampling, by explicit regulation, is **not** there to demonstrate that the area is “clean,” but rather, **using biased sampling**, to diligently attempt to prove that the area is not clean.

Yet during the third visit, it appears that the sampling was performed to prove the area was clean, since samples were collected from surfaces with intrinsically low probability of contamination. Entirely ignoring regulations that state samples SHALL be collected from:

- 6.1.1. Areas expected to **have the highest levels** of contamination, such as cooking areas, chemical storage areas, and waste disposal areas

Quest collected samples (with one exception) from areas that a legitimate Industrial Hygienist knows would have the LOWEST probability of being contaminated.

In the table below, we have presented those samples which were collected from areas, a legitimate Industrial Hygienist knows would not be appropriate and would not be compliant with regulation.

| Sample Location                                  | Date    |
|--|---------|
| Master bathroom cabinet front, right door        | 8/23/11 |
| Master bathroom light                            | 8/23/11 |
| Master bedroom sliding door, upper left frame    | 8/23/11 |
| Master bedroom entry door – interior lower left  | 8/23/11 |
| Master bedroom closet west top clothing rod      | 8/23/11 |
| Hall bathroom cabinet kick plate at the vent     | 8/23/11 |
| Hall bathroom pantry door – interior left panel  | 8/23/11 |
| Corner bdrm entry door interior side lower right | 8/23/11 |
| Corner bedroom closet clothes rod on right       | 8/23/11 |

Table 3  
Table of Samples Prohibited by Virtue of Low Probability

Some of these samples, such as the sample Master bedroom sliding door, upper left frame, were also not compliant for other reasons such as insufficient surface area (only 82 cm<sup>2</sup>) being collected.



## **Failure to Collect Sufficient Surface Areas**

According to State regulations:

*For any given functional space, at least 500 cm<sup>2</sup> of surface shall be sampled, unless the area is assumed to be non-compliant.*

In this case, Quest simply ignored the requirement to assign Functional Spaces (a practice common to all Quest projects we have seen performed by this consultant) and collect a valid number of samples of *at least* 500 cm<sup>2</sup> from each space to clear that space. Instead, Quest merely collected random prohibited samples in a willy-nilly fashion with no regard for State Regulations.

In the Table below, we have presented the surface areas that were actually collected using valid samples to clear each Functional Space.

| Functional Space                              | Samples Collected | Number of Invalid Samples | Total Surface Area Used to Clear the Functional Space |
|---|-------------------|---------------------------|---|
| Attic   | 5                 | 4                         | 100   |
| Central Bedroom                               | 0                 | 0                         | 0   |
| Crawlspace                                    | 5                 | 4                         | 100   |
| Down stairs bathroom                          | 0                 | 0                         | 0   |
| Downstairs NE Storage room                    | 0                 | 0                         | 0   |
| Downstairs Recreation Room                    | 1                 | 1                         | 0   |
| Downstairs SE Storage room                    | 2                 | 1                         | 100   |
| Furnace room                                  | 1                 | 0                         | 100   |
| Garage  | 7                 | 7                         | 0   |
| Hall bathroom                                 | 4                 | 1                         | 300   |
| Living-room kitchen- dining room hall complex | 5                 | 2                         | 300   |
| Master bedroom                                | 6                 | 6                         | 0   |
| Master bathroom                               | 0                 | 0                         | 0   |
| NE Bedroom                                    | 0                 | 0                         | 0   |
| Stair well                                    | 0                 | 0                         | 0   |
| Ventilation system                            | 1                 | 0                         | 100   |

**Table 4**  
**Surface Areas Collected For Clearance**

As can be seen, none of the Functional Spaces were cleared with the mandatory 500 cm<sup>2</sup> using valid samples.

## **Failure to Submit Field Blanks**

According to regulations:



At least one sample media blank, treated in the same fashion but without wiping, should be submitted for every 10 samples collected.

Although not a fatal flaw, the failure to submit the correct number of blanks is a further example of the sloppy work and lack of understanding of good sampling protocols and the Colorado State regulations exhibited by Quest.

During its first visit, Quest collected 25 samples, therefore, three blanks were required; Quest only submitted two blanks.

During the second visit, Quest was required to collect at least five samples and include one blank; Quest collected one (invalid) sample from a prohibited surface and did not include any blanks.

### ***Failure to Comply With Paragraph 8.22 (Fraudulent Statements)***

Quest failed to comply with the provisions of Paragraph 8.22 which states that the Industrial Hygienist must provide:

8.22. Certification of procedures and results, and variations from standard practices.

The work performed by Quest at this property involved numerous deviations and variations from the State regulations, as described in this Critical Review. Yet Quest failed to document those variations from regulation and Standard Industry Practices as required.

Further, in its “certification” Quest has patently provided false information by signing the following statement:

**Certification Statement:** “I do hereby certify that we conducted post-decontamination clearance sampling in accordance with 6 CCR 1014-3, § 6. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing we conducted.”

As clearly demonstrated above:

1. Quest did not conduct post decontamination clearance sampling in accordance with 6 CCR 1014-3
2. There is no documentable evidence pursuant to regulation that the property has met the clean-up standards established by 6 CCR 1014-3
3. Quest did not perform ANY valid post decontamination testing.
4. The samples collected after Quest’s THIRD attempt to perform verification sampling conclusively demonstrates elevated noncompliant concentrations of methamphetamine are still present at the property.



## ***Failure to Comply With Paragraph 8.23***

Quest made a false certification, and failed to meet the provisions of the requirements of Paragraph 8.23 of 6 CCR 1014-3 which require the consultant to provide:

8.23. A signed certification statement in one of the following forms, as appropriate:

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, § 4, and that I conducted post-decontamination clearance sampling in accordance with 6 CCR 1014-3, § 6. I further certify that the property has been decontaminated in accordance with the procedures set forth in 6 CCR 1014-3, § 5, and that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted.

"I do hereby certify that I conducted a preliminary assessment of the subject property in accordance with 6 CCR 1014-3, §4. I further certify that the cleanup standards established by 6 CCR 1014-3, § 7 have been met as evidenced by testing I conducted."

## ***Colorado Criminal Code – Fraud; Offering a false instrument for recording***

One of two mental states necessarily must have been present in the performance of the Quest work: 1) Either Quest knew that the work it was performing was grossly incompetent and not in compliance with State Regulations (as demonstrated above) or, 2) Quest was unaware of the fact that their work was grossly deviating from mandatory State requirements.

If Quest did not know that their work was grossly deviating from mandatory State requirements, then that is sufficient information to surmise that they lacked the technical competency and authority to perform the work in the first place since it would have been their professional obligation to conform to those regulations and perform work pursuant to those regulations. Indeed, on two occasions Quest personnel have signed statements affirming on a legal document that the work they performed conformed to those regulations.

However, since FACTs has, in the past repeatedly pointed out the same deficiencies in Quest's work, (as referenced in this discussion and which was already known to Mr. Brisnehan), therefore, one must surmise that Quest knowingly and willingly performed work that grossly deviated from mandatory State requirements with the intent to defraud.

According to Colorado Revised Statute CRS §18-5-114 (*Offering a false instrument for recording*), a person commits a class 5 felony when offering a false instrument for recording in the first degree if, knowing that a written instrument relating to or affecting real or personal property or directly affecting contractual relationships contains a material false statement or material false information, and with intent to defraud, he presents or offers it to a public office or a public employee, with the knowledge or belief that it will be registered, filed, or recorded or become a part of the records of that public office or public employee.



Pursuant to State statute, and state regulations, the mandatory “Preliminary Assessment” and the final report on post remediation sampling of an illegal drug lab is filed with the “Governing Body” with jurisdiction wherein the property is located.

Quest explicitly states they possess knowledge of the regulations, and therefore, establish the fact that they are aware of such recording.

We recommend that the situation be forwarded to the District Attorney for proper evaluation, and to determine if the case rises to the level of criminal conduct, especially considering that Quest has a documented history of ignoring State Regulations and State Statutes, and has, with foreknowledge, failed to perform its regulatory and professional obligations in this matter.

### **Colorado Criminal Code CRS 18-5-113. Criminal impersonation**

According to readily available documentation, Robert Woellner of Quest Environmental has repeatedly performed illegal drug assessment work purporting to be in compliance with State regulations; work that has repeatedly been shown to be in gross violation of those regulations. In this case, as is typical for Quest, the work was profoundly incompetent, and profoundly in violation of State regulations, and contained objectively falsified information.

Robert Woellner does not meet the definition of an Industrial Hygienist, has openly stated that he is NOT an industrial Hygienist, and therefore was not authorized to perform the work in the first place.

There is no indication that Robert A. Woellner is qualified to perform the work or sign the affidavit in lieu of a legitimate Industrial Hygienist and there is no Statement of Qualifications for Robert A. Woellner as required by regulation. The incompetence demonstrated in this (and every other example of Mr. Woellner’s work we have seen), is sufficient to demonstrate that Mr. Woellner is NOT an Industrial Hygienist and is NOT competent to perform the work and is therefore falsely representing himself, apparently in violation of Colorado’s Criminal Code as an Industrial Hygienist.

Colorado Case law defines criminal impersonation as knowingly assuming a false or fictitious identity or capacity, and in that identity or capacity, doing any act with intent to unlawfully gain a benefit or injure or defraud another (*People v. Brown*, 193 Colo. 120, 562 P.2d 754 (1977); *People v. Borrego*, 738 P.2d 59 (Colo. App. 1987)). To falsely impersonate means to pretend to be a particular person without lawful authority ( *People v. Horkans*, 109 Colo. 177, 123 P.2d 824 (1942); and to perform an act in assumed character for benefit. It is an offense under the code to falsely impersonate another, and in such assumed character to do any act whereby any benefit might accrue to the offender or to another person. (*People v. Horkans*, 109 Colo. 177, 123 P.2d 824 (1942)). Venue is not an element of the crime of criminal impersonation (*People v. Perez*, 129 P.3d 1090 (Colo. App. 2005)). Although the code does not require two overt acts to be committed, (rather the code requires assuming a false identity and doing an act with the intent to gain



a benefit (*People v. Johnson*, 30 P.3d 718 (Colo. App. 2000)), Mr. Woellner has repeatedly performed these acts. The requisite intent to gain a benefit may be inferred from the accused's knowing use of a false identity and the acknowledged intent to secure some advantage from the impersonation (*People v. Borrego*, 738 P.2d 59 (Colo. App. 1987)). The common meaning of "assumes a false or fictitious identity" is not to hold oneself out as someone that he or she is not; it requires the assumption of the identity of another person, whether that other person is real or fictitious (*People v. Jones*, 841 P.2d 372 (Colo. App. 1992)). For example, an attorney with a suspended license who continues to practice law is guilty of criminal impersonation for practicing law. The courts have held that "continuing to represent himself as an attorney and performing legal work when he was aware that he had no valid license to do so amounts to the assumption of a false or fictitious capacity for purposes of the criminal impersonation statute." (*People v. Bauer*, 80 P.3d 896 (Colo. App. 2003)).

FACTs alleges that in violation of CRS §18-5-113, (Criminal impersonation), on several occasions referenced in this document, Robert Woellner of Quest Environmental Services has violated Colorado's criminal code regarding impersonation by knowingly assuming a false or fictitious identity or capacity as an Industrial Hygienist, and in such identity or capacity subscribed or verified or published or acknowledged, a written instrument which, by law may be recorded, with the intent that the same may be delivered as true; and therefore did an act with regard to 4893 S Johnson Street, Denver Colorado, and other properties identified in this document, with intent to unlawfully gain a benefit for himself or another or to injure or defraud another.

## CONCLUSIONS

FACTs recommends that the entire case, including all other work performed by these parties, be reviewed for possible criminal activity.



Caoimhín P. Connell  
Forensic Industrial Hygienist

