



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

August 14, 2015

Don Roybal
Maintenance Supervisor
Boulder County Housing Department
PO Box 471
Boulder, CO 80306

RE: 2330 Wedgewood Ave., Building 5, Longmont, CO 80503-1725

Dear Mr. Roybal:

We have reviewed the August 7, 2015 letter from Mr. Richen (Boulder County Public Health Department) regarding the property located at 2330 Wedgewood Ave., Building 5, Longmont, CO 80503-1725.

We have attempted to keep our responses as circumspect and discrete as possible, as demonstrated by the demeanor of our previous reports and communications regarding Mr. Richen. However, as Mr. Richen has decided to escalate this matter, we are forced to respond and explain the ulterior motives associated with his communications.

Mr. Richen knows that his “concerns” are fabrications, and due to the knowingly fallacious context of Mr. Richen’s letters, this response is being prepared, in part, for review by our legal counsel and we recommend that for your protection (our valued client), this response be provided to the Boulder County Housing Authority (BCHA) legal staff for evaluation.

As such, this letter is written as much for your our respective legal counsels as for you, and so, Mr. Roybal, I beg your patience with the details.

Similar to our earlier response¹ to Mr. Richen’s August 7, 2015, letter regarding 769 Cleveland Circle, Lafayette, CO 80026, this letter will demonstrate that Mr. Richen, in violation of Colorado Criminal Statute, is knowingly fabricating false information in a malicious effort to impugn the reputation of our company, and gain benefit to himself by covering up literally hundreds of regulatory violations in other reports submitted by other consultants concerning the sampling of methamphetamine affected residences in Boulder County, which he has either intentionally, or through negligence, overlooked.

According to Colorado Revised Statue CRS 25-18.5-105, a local municipality or county has statutory authority to enforce the requirements of the Regulation under discussion (*viz* 6 CCR 1014-3). However, there is nothing in regulations that allows an individual within a jurisdiction to knowingly invent alleged violations.

¹ See http://forensic-applications.com/meth/BCDH_Secure/Response_to_Richens_rejection.pdf (Username required: BCHA_01; Password required: BCHealth_01)

According to Colorado Criminal Code:

CRS 18-8-404. First degree official misconduct.

(1) A public servant commits first degree official misconduct if, with intent to obtain a benefit for the public servant or another or maliciously to cause harm to another, he or she knowingly: (a) Commits an act relating to his office but constituting an unauthorized exercise of his official function; or (b) Refrains from performing a duty imposed upon him by law; or (c) Violates any statute or lawfully adopted rule or regulation relating to his office. (2) First degree official misconduct is a class 2 misdemeanor.

Therefore it is important to put Mr. Richen's letters into their proper perspective, since nothing within Mr. Richen's letters are meant to enforce the regulations (as evidenced by the fact that Mr. Richen could not actually find any regulatory violations in our work for BCHA). That is, Mr. Richen, with intent to gain benefit for himself and maliciously cause harm to FACTs, he knowingly committed an act relating to his office but constituting an unauthorized exercise of his official function.

HISTORY

On May 20, 2011, an illegal drug laboratory was "discovered" at 100 West Spaulding Street, Lafayette, CO.

Personnel from FACTs made the discovery pursuant to CRS §38-35.7-103 and issued a report on May 20, 2011, pursuant to 6 CCR 1014-3 and CRS §18-8-115.

On January 24, 2013, as part of a criminal prosecution concerning the above mentioned property, I testified before a Boulder Grand Jury² (20th Judicial District) regarding an indictment wherein the Grand Jury handed down a Bill (the guilty individual is currently in prison).

On January 20, 2015, Melanie Del Hierro³ asked FACTs to review documentation associated with this same property. During our review, we discovered that an illegal "decontamination job" had occurred at the property. We also discovered that a consultant with an history of fabricated credentials and invalid assessments of methamphetamine affected properties performed an unlawful "clearance" at the property. (This happens to be the same consultant who is now at the center of a controversy in a Boulder County School District dispute).

The consultant in question is also at the heart of another controversy, when it was discovered that he had falsified documentation regarding another property (Johnson Street).⁴ For that that

² *State of Colorado 20th Judicial District v. Kenneth H. Dimon III*, (Contact: DDA Jane Walsh, Director of Community Protection, Office of the District Attorney, 20th Judicial District, P.O. Box 471, Boulder CO 80306)

³ Denver Investment Group, Inc., 2649 W 26th Ave Unit A, Denver, CO 80211-6323

⁴ http://www.forensic-applications.com/meth/Johnson_Critical_review.pdf



property, it was discovered that a regulator with the Colorado Department of Public Health and Environment, (Ms. Colleen Brisnehan), in her official capacity, had accompanied the consultant to the Johnson Street property, and assisted the unauthorized consultant in the collection of illegal samples. Ms. Brisnehan, in her official capacity for the CDPHE, then lied to the occupant of the house and told the occupant that the cleaning and verification had been performed pursuant to State regulations, and Ms. Brisnehan would *personally* vouch for the results. In fact, none of that was true.

Ms. Brisnehan failed to tell the occupant of the house that, in violation of Colorado Revised Statutes, §24-50-117, Ms. Brisnehan was not just a regulator associated with the property, but was simultaneously a Board Member of a commercial organization called the Colorado Association of Meth and Mold Professionals (CAMMP) and that the consultant in question, was also a member of her commercial organization and she was helping him cover up regulatory violations at the property. Indeed, Ms. Brisnehan neglected to mention to the occupant that not only was the consultant performing clearance sampling at her residence a member of Ms. Brisnehan's commercial group, but the initial consultant for the Johnson Street property (who, by the way, botched the work), was actually a fellow Board Member with Ms. Brisnehan on her commercial group.

Colorado Revised Statutes, Title 24 reads:

24-50-117. Prohibited activities of employees

No employee shall engage in any employment or activity which creates a conflict of interest with his duties as a state employee. The board shall promulgate general rules on incompatible activities, conflicts of interest, and employment outside the normal course of duties of state employees.

The new owner of the Spaulding Street property provided FACTs with a copy of the documentation for 100 West Spaulding Street, Lafayette, CO, for review. FACTs reviewed the report and identified no fewer than 143 violation of regulation. Also noted, during this review, was the fact that the consultant who performed the work was the same consultant who was a member of Ms. Brisnehan's Commercial organization, and who was not authorized under State regulations to engage in the work. A full copy of our review can be found here: http://forensic-applications.com/meth/Spaulding_Regulatory_audit_Redacted.pdf

Ms. Del Heirro then asked us to review a June 15, 2014, letter from Mr. Michel Richen, with the Boulder County Public Health Department, wherein Mr. Richen stated that he had received verification from the consultant that the property had been cleaned and was compliant with regulations.

We explained to Ms Del Heirro that our interpretation of the letter provided by Mr. Richen was that he was merely acknowledging the receipt from a consultant who was claiming to have performed the necessary work; the actual validity of the work, notwithstanding. Mr. Richen then contacted Ms. Brisnehan at the CDPHE's office who lied, and vouched for the unlawful work performed by a fellow commercial organization (CAMMP) member, and in their letter, omitted identifying the conflict of interest (regulator as public employee and member of pseudo-



professional commercial group dealing with state contracts, and failed to address even one of the identified violations found in this report. Ms. Brisnehan's office also failed to mention that not only was Ms. Brisnehan still identified as serving on the Board of Directors for CAMMP, but her office also failed to mention (for full disclosure purposes) that FACTs had testified against Ms. Brisnehan during an internal review of questionable practices in her official capacity at CDPHE.

It should be noted that the property at 100 West Spaulding Street, Lafayette, CO has never been remediated pursuant to regulations, has never been cleared pursuant to regulations, and remains, to this day, a noncompliant illegal drug laboratory; in which people now reside not knowing the history or noncompliant status of the property.

Following our regulatory audit of the Spaulding Street property, Mr. Richen, understood that it may be discovered that he had approved clearance assessment reports on dozens of contaminated houses which are now being reoccupied and the health of these new occupants may very well be in jeopardy.

Therefore, it appears that Mr. Richen has decided that his best defense at covering up the fact that certain properties were erroneously "cleared" by the BCPHD was to attempt to discredit FACTs and the regulatory audit of the Spaulding Street property, in the event that his acceptance of invalid clearance reports became public.

To this end, and during the same time, regarding another property in Lafayette, CO in which FACTs performed assessment activities Mr. Richen attempted to reject our report for that property.

This history brings us to today, and as such you will better understand why Mr. Richen has been fabricating the "issues" he is finding with our work for BCHA. This also explains why the "issues" he is raising are so vapid and vacuous that even if they were valid, they would otherwise be little more than curiosities, and not something one would rationally use to reject our work.

It is important to note that Mr. Richen continues to ignore actual violations from other contractors. For example, regarding a property also managed by the Boulder County Housing Authority, located at 731 Excelsior Place, Lafayette, CO 80026, Mr. Richen received the report of the Preliminary Assessment by Quality Environmental Services. Mr. Richen ignored no fewer than 344 regulatory violations regarding that property and failed to notify anyone that the sampling performed during that assessment was entirely invalid and failed to meet even minimal regulatory requirements. A copy of that review can be found here: http://forensic-applications.com/meth/BCDH_Secure/Boatman_Excelsior_PA_RA.pdf (NOTE: for the moment, that audit has not been placed in the public domain, and you will need Username BCHA_01 and Password BCHealth_01 to access that file).

Mr. Richen's (BCPHD) August 10, 2015 letter concerning: 2330 Wedgewood Ave., Building 5, Longmont, CO 80503-1725



Issue 1

Issue 1: There should have been Post-Decontamination samples collected in the interior and exterior of all large appliances if they were not disposed of. [Part 1 Section 6.9.7]

Response:

This is an imaginary “requirement” that does not appear anywhere in any State regulation. Part 1, Section 6.9.7, in its entirety reads as follows:

6.9.7 The interior of major appliances (microwaves, refrigerators, freezers, ovens, and dryers) must be sampled using discrete samples. The exterior of major appliances may be sampled using composite samples.

There is no requirement in State regulations that require sampling the interior and exterior of major appliances. The above regulation merely discusses the fact that when one is clearing an appliance, one must use a discrete sample. However, when one is sampling the exterior of an appliance (for example as part of a surface composite that is being used to clear a room), then one may use a composite.

The major appliances at the subject property are compliant, and no further action is required by regulations.

Issue 2

Issue 2: Because of the report’s confusing presentation of sample information in tables, sampling field forms and chain of custodies I cannot completely track the specifics of each sample and so cannot verify if enough different locations were sampled. At least 4 different locations must be sampled and found compliant in every room, attic and crawl space. [Part 1, Section 2 Definitions for “Composite sample” and “Composite sample result” (See cut and paste of these definitions below my signature line.), and Part 1 Sections 6.2.2, 6.3.6, 6.9.1]

Response:

Throughout our report, the information presented is obvious, clearly stated, and understandable by anyone with even a moderate level of intelligence.

For example, Mr. Richen states he can’t understand where the crawlspace samples were collected, therefore, let’s look at that as a single example.

Page 4 of our report has the following table:

General Sampling Requirements		
Rubric	Action	Status
§6.2.11	Have all sample locations been photographed?	<i>CL</i>
§6.9	Have all structures on the property been sampled?	<i>CL</i>
§6.9.1	Collected at least 400 cm2 from every “room?”	<i>CL</i>
§6.9.1	Collected at least 400 cm2 from every attic?	<i>CL</i>
§6.9.1	Collected at least 400 cm2 from every crawlspace?	<i>CL</i>
§6.9.2	Has at least 800 cm2 of total surface been sampled from the property	<i>CL</i>



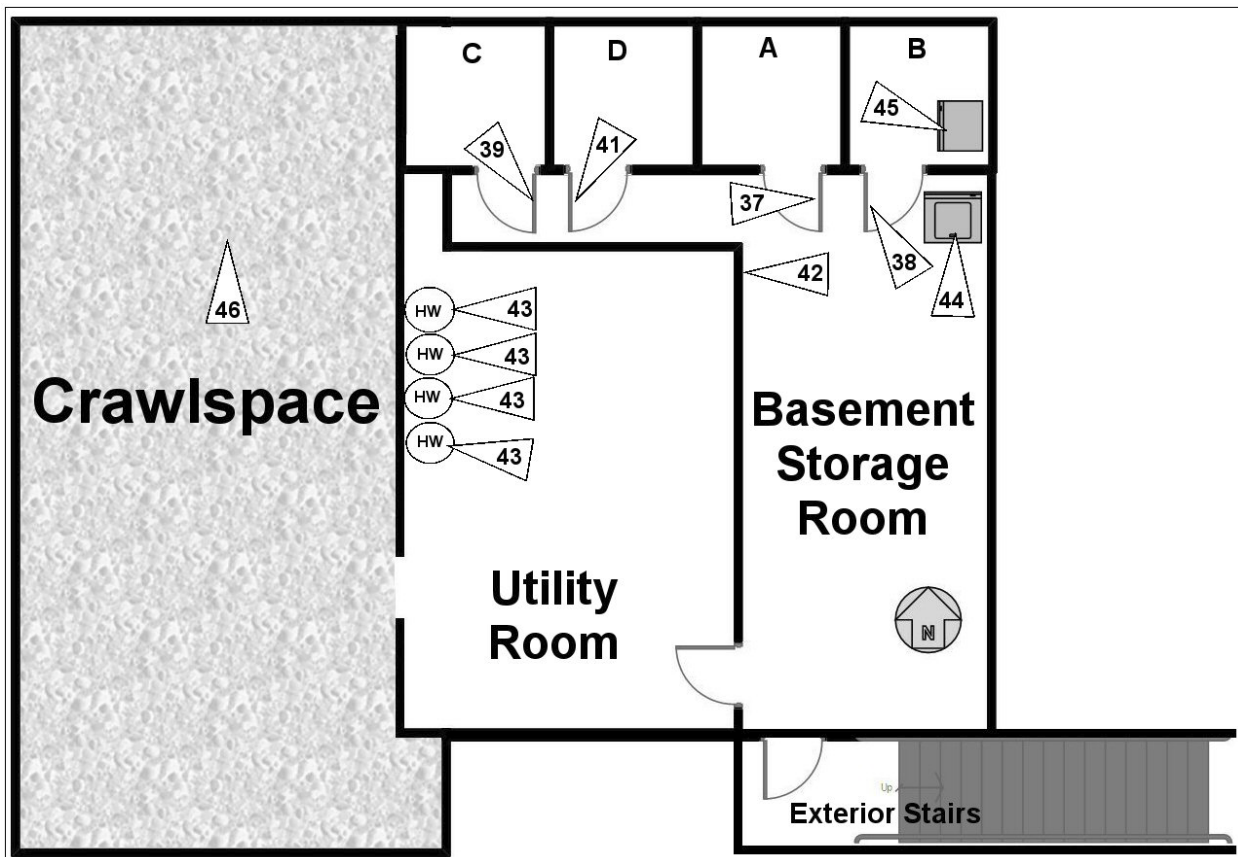
Table 1 in our report titled “Summary of Final Verification Sample Results” (Pages 8 and 9) succinctly and intelligible presents (oddly enough) a summary of the final verification sample results.

Table 1 presents the following:

Room	Location	Cleared with	Area cm2	Result $\mu\text{g}/100\text{cm}^2$
1	Unit A Living room	WM053115-12	400	0.04
...
29	Basement utility room	WM053115-43	400	<0.01
30	Crawlspace	WM053115-46	400	0.41

It is difficult to understand how the presentation of the crawlspace sample result is “confusing.”

Figures 1 through 7 of our report intelligently, legibly, unambiguously and succinctly present the sample locations. Here is our Figure 7:



Appendix B of our report is titled: Appendix B Analytical Reports Field Sampling Sheets. Page 50 of our report contains the raw field sampling form thusly :



SAMPLING FIELD FORM						
FACTs project name: Wedgewood			Form # ML17			
Date: May 31, 2015			Alcohol Lot#: NA		Gauze Lot#: NA	
Reporting IH: Caoimhin P. Connell, Forensic IH			Screening	Clearance	Preliminary	
Sample ID	Type	Location	Time	Dimensions	Substrate	
WM053115-						
-31	W	D: LR: No wall near Flood (LR/Kit comp)	15:11	4x10x8	P DW	
-32	W	D: SW BORM: Closer interior	15:15	4x10x10	P DW	
-33	W	D: NW BORM: Nurtl: W door	15:22	4x10x10	P DW	
...						
Surfaces: DW= Drywall, P=Painted; W= Wood, L= Laminated, V= Varnished, M= Metal, C=Ceramic, Pl=Plastic						
46	W	CRAWLSPACE - No wall: Sewer Pipe	16:05	4x10x10	M	
47	W	BX	15:54			

The field sampling form, consistent with the rest of the report, clearly, explicitly and unambiguously indicates that on May 31st, 2015 at 16:05, four 10 X 10 samples were collected from a metal (M) sewer pipe at the north wall of the crawlspace; the four aliquots were combined to form composite Sample WM053115-46.

Our photographs of the sample locations were provided to Mr. Richen on the DVD that was submitted to him, and in the photograph log in our report:

Included on the DVD provided to Mr. Richen with our report, is our photograph file: IMG_20150531_160014092 which shows:





Included on the DVD provided to Mr. Richen with our report, is our photograph file: IMG_20150531_160019407 which shows:



Included on the DVD provided to Mr. Richen with our report, is our photograph file::
IMG_20150531_160504569_HDR which shows:



The work FACTs performed is completely compliant with all Colorado state regulations regarding the sampling of methamphetamine affected properties. The report is written in such a way as to be easily understood by an individual who may not even have prior knowledge of the sampling process. Contrary to Mr. Richen’s “issues”, no further action is required at this subject property. It is in full compliance with all pertinent state regulations.



We respectfully suggest that Mr. Richen withdraw his three unfounded “rejection” letters citing work performed by FACTs for the BCHA, by Wednesday, August 19, 2015, at which point, FACTs will consider the matter closed. If we do not hear from Mr. Richen’s office by that date we will be obligated to prepare a response to Mr. Richen’s third letter. For that response, similar to this response, we will be obligated to provide multiple examples of assessment reports on Boulder County properties which contain literally hundreds of **actual regulatory violations** by the consultants involved, and which have been ignored, either purposefully or in ignorance, by Mr. Richen.

If you have any questions, please feel free to contact me.

Thank you,



Caoimhín P. Connell
Forensic Industrial Hygienist

CC: Howard Thigpen, Esq.





Public Health

Air Quality Program

August 7, 2015

Don Roybal
Housing Maintenance Manager
Boulder County Housing & Human Services
1288 Alaska Avenue
Longmont, CO 80501

RE: 2330 Wedgewood Avenue, Building 5 Longmont, CO 80501 Methamphetamine (Meth) Affected Property
Post-Decontamination Report

Dear Mr. Roybal:

This letter confirms that Boulder County Public Health received a Consultant Meth Post-Decontamination Report for 2330 Wedgewood Avenue, Building 5 Longmont, CO 80501 from Forensic Applications Consulting Technologies, Inc. (FACTs) and a Contractor Decontamination Summary Report from Crystal Clean Decontamination, LLC. Review of the Consultant's report determined that it did not meet the following requirements of the Colorado Board of Health Regulation No. 6 CCR 1014-3 CLEANUP OF METHAMPHETAMINE-AFFECTED PROPERTIES. The Contractor's report met the requirements.

Issue 1: There should have been Post-Decontamination samples collected in the interior and exterior of all large appliances if they were not disposed of. [Part 1 Section 6.9.7]

Issue 2: Because of the report's confusing presentation of sample information in tables, sampling field forms and chain of custodies I cannot completely track the specifics of each sample and so cannot verify if enough different locations were sampled. At least 4 different locations must be sampled and found compliant in every room, attic and crawl space. [Part 1, Section 2 Definitions for "Composite sample" and "Composite sample result" (See cut and paste of these definitions below my signature line.), and Part 1 Sections 6.2.2, 6.3.6, 6.9.1]

These issues can be resolved by some corrective actions and resubmittal of a clearer and easier to track Consultant Report.

For your reference the full updated regulation can be found at the following web link.
[http://www.sos.state.co.us/CCR/6%20CCR%201014-3.pdf?ruleVersionId=6014&fileName=6 CCR 1014-3](http://www.sos.state.co.us/CCR/6%20CCR%201014-3.pdf?ruleVersionId=6014&fileName=6%20CCR%201014-3)

If you have any questions please feel free to contact me at 303-441-1566 or e-mail at mrichen@bouldercounty.org

Sincerely,



Michael J. Richen CIH
Industrial Hygienist
Boulder County Public Health

CC electronically:

Chris Allison, City of Longmont Chief Building Official
Michelle Cogswell, Code Official City of Longmont
Colleen Brisnehan, CDPHE Hazardous Waste Division
Leslie Lacy, Boulder County Attorney's Office
Caoimhin Connell, FACTS

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
State Board of Health
CLEANUP OF METHAMPHETAMINE-AFFECTED PROPERTIES
6 CCR 1014-3

Part 1 Section 2.0 Definitions

"Composite sample" means a sample comprised of multiple aliquots collected from separate locations.

"Composite sample result" is the concentration of the analyzed contaminant per unit area. It is derived by dividing the total amount of the contaminant detected by the analytical method by the combined total area of the sample aliquots. Composite sample results for methamphetamine and iodine should be reported as x micrograms/100 cm².