



Department of Investigation

Press Releases

Queens Asbestos Investigator Arrested In DOI Bribery "Sting"

Release #009-2000

THURSDAY, FEBRUARY 3, 2000 -- EDWARD J. KURIANSKY, Commissioner of the Department of Investigation (DOI), today announced the felony arrest of XIONGFEI (SEAN) LU, a certified industrial hygienist in Bayside, Queens, for making \$1,500 in cash payoffs to a City Department of Environmental Protection (DEP) auditor and a DOI undercover agent to avoid being cited for filing a false asbestos inspection report.

According to Commissioner Kuriansky, before a structure can undergo construction or renovation, the owner must apply to the City's Department of Buildings (DOB) for a work permit. Among other things, the work permit application includes information about the project's location, the type of work proposed, and a statement of responsibility acknowledging that certain inspections, such as an asbestos inspection, will be performed as part of the work.

DOB regulations require that an asbestos inspection report be prepared by a certified asbestos investigator, who determines whether or not a construction job constitutes an "asbestos project." An asbestos investigator may be a registered architect, professional engineer, certified industrial hygienist, or certified safety professional, who has been certified by DEP to identify and evaluate the condition of asbestos in buildings. If an asbestos investigator determines that a structure is not an asbestos project, he must complete, sign, and affix his seal to a DOB ACP-5 Form entitled "Not an Asbestos Project." On the other hand, if he determines that a structure is an asbestos project, the inspector must complete an ACP-7 "Asbestos Inspection Report."

In either case, the applicable report is then submitted to DOB, which retains a copy and sends the original to DEP, the agency responsible for monitoring all construction that may cause the release of asbestos fibers or asbestos-containing material. DEP routinely audits the records of asbestos investigators who file ACP-5 forms. Filing a false asbestos report with DEP, Commissioner Kuriansky said, carries a \$2200 penalty.

In June 1999, a DEP auditor requested LU to provide backup records for an ACP-5 form relating to an inspection LU conducted in November 1997. After a week's delay, LU went to DEP's offices and left a package of documents for the auditor. When the auditor reviewed the documents at a later date he found \$500 in cash mixed in with the records. The auditor immediately reported the matter to his supervisor, who, in turn, notified DOI.

Thereafter, an undercover DOI investigator, posing as another DEP auditor, met with LU and informed him that the paperwork he had submitted -- including laboratory reports - - clearly showed that there was asbestos present at the inspected location and that the ACP-5 form he had filed was inaccurate. LU offered the DOI undercover \$1,000 in cash to avoid being cited for filing a false report. The undercover, pretending to go along

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with LU's offer, accompanied the defendant to a nearby bank, where LU withdrew \$1,000, gave it to the DOI agent, and also acknowledged that he had previously given \$500 to the DEP auditor.

Commissioner Kuriansky noted that the location LU had inspected was an unoccupied, detached one-family residence at which renovation work was being done, including the installation of new siding. The lab test revealed the presence of asbestos in the existing first floor exterior siding. With the installation of the new siding, the asbestos, if properly handled, should have either been removed or contained.

LU, 54, who resides at 57-11 Cloverdale Boulevard in Bayside, New York, was charged with 2 counts of Bribery in the Third Degree, a Class D felony punishable by up to 7 years in prison.

The investigation was conducted by Clive Morricks, DOI's Inspector General for DEP, and members of his staff, including Special Investigators James Christo, Marc Herman, and Chuck Joe.

The Office of Queens District Attorney Richard A. Brown is prosecuting the case. Assistant District Attorney Daniel O'Leary is handling the matter.

Members of the public are reminded that a complaint is merely an accusation and is not evidence of guilt. Every defendant is presumed innocent and is entitled to a fair trial in which it is the government's burden to prove guilt beyond a reasonable doubt.