

AGREED BOARD ORDER NO. 11-07

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident No. 05920

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and Candela Systems Corporation, a New York corporation (Company), and is effective on the date of its adoption by the Board.

COMPANY: Candela Systems Corporation
148 Route 202
Somers, NY 10589

REGULATIONS INVOLVED:

District Regulation 5.04: Adoption of Federal Emission Standard for Asbestos
40 Code of Federal Regulations §61.145: Standard for Demolition and Renovation

NOTICE OF VIOLATION LETTER: No. 02243, dated March 2, 2011

BACKGROUND AND DISCUSSION:

Company is an electrical contractor that was hired to upgrade light fixtures during a lighting renovation project at the University of Louisville. During the course of the project, Company removed light fixtures without thoroughly inspecting for the presence of asbestos.

On or about March 18, 2010, the Louisville Metro Air Pollution Control District (District) received notification from the University that electrical contractors had removed light fixtures that may have contained asbestos-insulated wiring. The University indicated that 276 light fixtures had been removed from Ernst Hall by Company, and 122 light fixtures had been removed from the Natural Science Building by another electrical contractor.

On or about March 23, 2010, the University began inspections of light fixtures that remained in the two buildings. Samples of cloth-wrapped wires were collected by a state-accredited asbestos building inspector hired by the University, and submitted to a laboratory. Analytical results provided by EMSL Analytical, Inc. indicated that some cloth-wrapped wires contained 20% Chrysotile.

The University also discovered that lighting waste from the buildings remained in a 30 cubic yard roll-off container that was located on the campus. The University collected samples from the lighting waste and determined that some cloth-wrapped wires found in the waste also

contained asbestos. Analytical results provided by McCall and Spero Environmental, Inc. indicated that the cloth-wrapped wires contained 40% Chrysotile.

While some cloth-wrapped wires tested positive for asbestos, the University and its inspector believed that its waxy quality made the material non-friable. On or about March 27, 2010, the University notified the District that it had contracted with National Environmental Consulting, Inc. to abate and dispose of asbestos for the remainder of the lighting project.

To fully address the violation of District Regulation 5.04 alleged above, the parties agree to this Order assessing against Company an administrative settlement of \$15,000. On July 20, 2011, a public hearing was held before the Board on this proposed Order. Based upon the information presented at that hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

NOW, THEREFORE BE IT ORDERED THAT:

1. Company shall pay \$15,000 to the Louisville Metro Air Pollution Control District. Company shall pay \$5,000 in three installments due July 29, August 31, and September 30, 2011.
2. Company has reviewed this Order and consents to all its requirements and terms. Company agrees to pay the cost of publishing legal notice of the public hearing.
3. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.
4. This Order fully resolves the violations alleged in District Incident No. 05920, and as alleged above in this Order.
5. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in this Order.

Louisville Metro Air Pollution Control Board

Candela Systems Corporation

By: _____
Robert W. Powell, M.D.
Chairman

By: _____
James Bernardo
President

Date: _____

Louisville Metro Air Pollution Control District

By: _____
Terri Phelps
Enforcement Manager

Date: _____

Approved as to form and legality:

By: _____
Stacy Fritze Dott
Assistant County Attorney