

**Regulatory Audit
of
Clearance Sampling Report
By
Robert Woellner
QUEST Inc.
at an
Identified Illegal Drug Laboratory
(Identifying 366 Violations 6 CCR 1014-3)**

**Located at:
410 Garfield Ave.
Carbondale, CO 81623**

Prepared by:

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



December 8, 2015

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
REVIEW OF THE DOCUMENT	5
Clearance Sampling Required by Regulations	5
Violation of Paragraph 4.7 (11 Violations)	6
Violation of Paragraph 4.17	6
Violation of Section 6.1.3	7
Violation of Section 6.1.3.2	7
Violation of Section 6.1.3.3	7
Violation of Section 6.1.3.5	8
Violation of Section 6.2	8
Violation of Section 6.2.2 (9 Violations)	8
Violation of Section 6.2.2 (28 Violations)	15
Violation of Section 6.2.3 (9 violations)	15
Violation of Section 6.2.7 Second Pass (39 violations)	15
Violation of Section 6.2.7 Third Pass (39 violations)	16
Violation of Section 6.2.11 (7 violations)	17
Violation of Section 6.2.11 Times (39 violations)	17
Violation of Section 6.2.14.5 (5 violations)	17
Violation of Section 6.2.14.6 (14 violations)	18
Violation of Section 6.2.14.7 (14 violations)	18
Violation of Section 6.2.14.8 (14 collection time violations)	18
Violation of Section 6.2.14.8 (14 collection date violations)	18
Violation of Section 6.2.14.9 (14 violations)	18
Violation of Section 6.3.5 (8 violations)	19
Violation of Section 6.3.6 (8 violations)	19
Violation of Section 6.5	19
Violation of Section 6.9 (Failure to Verify Clean-up Standards)	20
Violation of Section 6.9 (Failure to Sample All Structures – 2 violations)	20
Violation of Section 6.9.1 (10 violations)	20
Violation of Section 6.9.4 (4 violations)	21
Violation of Section 6.9.6 (2 violations)	22
Violation of Section 6.9.7 (4 violations)	22
Violation of 6.9.11.1 (21 violations)	23
Violation of 6.9.11.1 (7 violations)	24
Violation of 6.9.11.3	25
Violation of 7.1.1	25
Failure to Comply with Section 7.2	26
Failure to Comply with Paragraph 7.3	26
Failure to Comply with Paragraph 7.4 (14 Violations)	27
Violation of Section 8	27
Violation of Section 8.2	28
Site Conditions:	28
Previously Identified Cooking Areas: (1 violation)	29
Chemical Storage Areas: (1 violation)	29
Waste Disposal Areas: (1 violation)	29
Areas of Obvious Contamination: (1 violation)	29
Violation of Section 8.3	30
Violation of Section 8.5	30
Violation of Section 8.6	30
Violation of Section 8.6.1 (Photographs Missing)	30
Violation of Section 8.6.1 (Descriptions Missing)	30
Violation of Section 8.6.2 (3 violations)	31
Violation of Section 8.6.4	31
Violation of Section 8.6.5	31
Violation of Section 8.6.6	31

Violation of Section 8.6.7	31
Colorado Criminal Code CRS 18-5-113. Criminal impersonation.....	32
Colorado Criminal Code – Fraud; Offering a false instrument for recording	32
Colorado Consumer Protection Act	33
Regulation 6 CCR 1014-3 Language on Knowledge	34
CONCLUSION	35
Appendix A.....	36
Reviewer's Statement of Qualifications	36

EXECUTIVE SUMMARY

Forensic Applications Consulting Technologies, Inc. (FACTs) is an independent S-Corporation registered in Colorado. FACTs is performing a series of regulatory audits on public domain documents regarding the sampling of methamphetamine affected properties located in Colorado. The degree (level) of scrutiny used in these audits is that which was established by the Colorado Department of Public Health and Environment (CDPHE) when reviewing FACTs reports.

This document has been prepared by FACTs as part of an ongoing Motion for Judicial Review in response to actions by personnel employed by the CDPHE, and pursuant to the provisions of C.R.S. 18-8-115 *Duty to report a crime - liability for disclosure*.

This review pertains to the document identified as:

Robert Woellner
Methamphetamine Post-Decontamination / Final Clearance Report
Residence at 410 Garfield Avenue in Carbondale, CO 81623
April 20, 2015
Prepared for
Ken Olson
410 Garfield Ave.
Carbondale, CO 81623

The purpose of this review is to document regulatory violations associated with regulatory work regarding the assessment of methamphetamine affected properties (6 CCR 1014-3). For this regulatory audit, FACTs has identified no fewer than 366 regulatory violations. This particular consultant, Mr. Robert Woellner, has an extensive history of regulatory violations, invalid drug laboratory assessments, falsification of real estate documents, and claims to credentials that are unsupported.^{1,2,3,4,5,6,7,8,9,10}

¹ 131 South Benton Street Denver, CO <http://forensic-applications.com/meth/censoredcriticalreview.pdf>

² 100 W. Spaulding Street, Lafayette, Colorado http://forensic-applications.com/meth/Spaulding_Regulatory_audit_Redacted.pdf

³ 4893 S Johnson Street, Denver http://www.forensic-applications.com/meth/Johnson_Critical_review.pdf

⁴ 788 W. Lois Ct., Louisville, CO 80027

⁵ 1138 West 32nd Street, Unit 201, Denver, CO

⁶ 48400 Routt County Road 56C, Steamboat Springs, CO 80487

⁷ 11767 Grant Street, Northglenn, Colorado 80233

⁸ 690 S. Lincoln Street, Denver, CO 80203

⁹ 8347 S Reed Street, Unit 2, Littleton CO 80128

¹⁰ March 2, 2015, Preliminary Assessment Inspection, 410 Garfield Avenue in Carbondale, CO 81623, March 2, 2015

FACTs previously performed an audit on the Preliminary Assessment for this property and identified no fewer than 198 regulatory violations, and determined that none of the sampling performed at the property was valid. The audit of the Preliminary Assessment also found that none of the declarations of compliance made by Mr. Woellner were valid.

For this audit of the Post Decontamination Clearance Report (Clearance Sampling) for the same property, FACTs has identified no fewer than 366 regulatory violations, and determined that none of the sampling performed at the property was valid. The audit of the clearance report also finds that none of the declarations of compliance made by Mr. Woellner were valid. Therefore, no clearance sampling, as required in regulation, was performed at this property at any time, and the property remains an illegal drug laboratory, entry into which is still prohibited.

REVIEW OF THE DOCUMENT

During the performance of Post Decontamination Assessment of a methamphetamine affected property, the Consultant is required by regulations to perform specific mandatory tasks and provide specific mandatory documentation in their report. In reviewing the report associated with 410 Garfield Avenue, Carbondale, CO 81623 (the subject property), FACTs has identified the following violations.

Clearance Sampling Required by Regulations

According to the regulations, once discovered, a property remains an illegal drug laboratory until such time that the property is either completely demolished or has been confirmed as compliant through specific testing protocols:

4.7 ...In the case of single-family dwellings, all rooms, attics, crawl spaces, and forced air ventilation systems of all buildings on the subject property must be assumed to be contaminated above the cleanup standards of Section 7, unless sampling conducted in accordance with the clearance level sampling protocols of Section 6 demonstrates the absence of such contamination in a given room, attic, crawl space, or ventilation system.

And

4.17 If clearance sampling is conducted during the preliminary assessment, it shall be conducted in accordance with Section 6 of this Part 1.

And

6.1.3 The following sample collection procedures shall be followed for screening level sampling, preliminary assessment sampling and clearance sampling, except as provided in Section 6.8.2 of this Part 1.

And

6.8.1 Except as provided in Section 6.8.2 below, the Consultant shall conduct sampling for methamphetamine that meets the clearance level sampling protocols of Section 6.9 in all rooms of a methamphetamine-affected property as part of the preliminary assessment.

And

6.9 Clearance level sampling protocols for buildings and personal property. The Consultant shall conduct clearance level sampling of any subject property that meets the definition of a methamphetamine-affected property, or that is suspected of being a methamphetamine-affected property as provided in Sections 3.2, 3.3 or 3.4 of this Part 1, to verify that cleanup standards have been met. If the subject property is a single family dwelling, the Consultant shall conduct clearance sampling of all structures on the property. If the subject property is a unit in a multi-unit building that has exclusive access to any auxiliary portion of the multi-unit property (such as a storage room or garage), the Consultant shall conduct clearance sampling of the unit and all such auxiliary structures.

As demonstrated in the following discussion, none of these provisions were met, and the property remains a contaminated illegal drug laboratory.

Violation of Paragraph 4.7 (11 Violations)

According to the regulations:

4.7 ...In the case of single-family dwellings, all rooms, attics, crawl spaces, and forced air ventilation systems of all buildings on the subject property must be assumed to be contaminated above the cleanup standards of Section 7, unless sampling conducted in accordance with the clearance level sampling protocols of Section 6 demonstrates the absence of such contamination in a given room, attic, crawl space, or ventilation system.

For this property, no sampling as required was conducted in the following areas:

- Crawlspace
- Identified Ducted Ventilation
- Mr. Olsen's Kitchen
- Mr. Olsen's Living areas
- Out Building 1
- Out Building 2
- Second floor areas
- Tenant Space Bathroom
- Tenant Space Bedroom
- Tenant Space Central Room
- Tenant Space Living Room - Kitchen

Violation of Paragraph 4.17

According to the regulations, when performing clearance sampling during the Preliminary Assessment, the consultant is required to follow specific protocols.

4.17 If clearance sampling is conducted during the preliminary assessment, it shall be conducted in accordance with Section 6 of this Part 1.

As delineated in the previous audit for the Preliminary Assessment for this subject property, and discussed again here, none of the sampling performed during the Preliminary Assessment was valid, and none of the sampling could be used for clearance or compliance purposes.

Violation of Section 6.1.3

According to the regulations, during the performance of post remediation clearance sampling (or any clearance sampling), the consultant is required to perform specific tasks:

6 CCR 1014-3 , Part 1

6.1.3 The following sample collection procedures shall be followed for screening level sampling, preliminary assessment sampling and clearance sampling, except as provided in Section 6.8.2 of this Part 1.

As delineated below, the sampling and assessment failed to meet the requirements specified in Regulations.

Violation of Section 6.1.3.2

According to the regulations, the consultant is required to perform specific sampling based on information obtained in the Preliminary Assessment.

6.1.3.2. Wipe sampling shall be used to determine the extent of lead contamination on all surfaces at properties whenever the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacture was used on the property.

In his Preliminary Assessment report, Mr. Woellner stated that he did not know the methamphetamine manufacturing process used, and he made no documentable attempt to find out what the manufacturing process may have been.

The consultant in question, Mr. Woellner, is a geologist with no documented training or specialized experience in Industrial Hygiene or illegal drug laboratories or their assessment. Mr. Woellner has no documented training even in the pertinent regulations (not including this audit); since December 15, 2014 - the effective date of the revised regulations - FACTs, Inc. has reviewed eight reports by Mr. Woellner, and identified no fewer than 1,643 – (one *thousand* six hundred and forty three) - regulatory violations in those eight reports. Therefore, there is no expectation that Mr. Woellner would possess the necessary skill set needed to identify the presence of a P2P laboratory. Therefore, it would have been impossible for Mr. Woellner to comply with this provision.

Violation of Section 6.1.3.3

According to the regulations, the consultant is required to perform specific sampling based on information obtained in the Preliminary Assessment.

6.1.3.3 Wipe sampling shall be used to determine the extent of iodine contamination whenever there is visible evidence of iodine staining on surfaces that will not be removed.

As described in the audit for the Preliminary Assessment for this subject property, since Mr. Woellner has no documented training in illegal drug laboratories he regularly overlooks signs of contamination and fails to understand the significance of those indicators. For example, Mr. Woellner entirely failed to recognize the iodine indicator he included in the photograph below (the photograph also documents violation of §6.2.2 – failure to delineate 100 cm² within the template and, violation of §6.2.2 prohibited re-use of templates).



QUEST Photograph

The visible evidence of iodine staining in the above photograph was never address for what it is.

Violation of Section 6.1.3.5

According to the regulations, the consultant is required to perform specific sampling based on information obtained in the Preliminary Assessment.

6.1.3.5 Vapor sampling shall be used to determine the extent of mercury contamination whenever the preliminary assessment indicates the P2P method of methamphetamine manufacture was used on the property.

Mr. Woellner entirely failed to determine the methamphetamine manufacturing process at this subject property; and there is otherwise no expectation Mr. Woellner would possess the necessary skill set needed to identify the presence of a P2P laboratory. Therefore, it would have been impossible for Mr. Woellner to comply with this provision.

Violation of Section 6.2

According to the regulations, during the collection of clearance samples, the consultant is required to perform specific sampling tasks:

6.2 Discrete Wipe Sample Collection Procedures. The following procedure shall be used for collecting discrete wipe samples:

None of the Post Decontamination sampling conducted at the property was performed pursuant to State regulations. All of the sampling performed at the subject property was invalid.

Violation of Section 6.2.2 (9 Violations)

According to the regulations, during the collection of clearance samples, the consultant is required to perform specific sampling tasks:

6.2.2 Delineate a 100 cm² area on the surface to be sampled, either by attaching a physical template to the surface (being careful not to touch the area within the template), or by an equivalently reliable and accurate method. **The area within the template (i.e., the sample area) shall be 100 cm².**

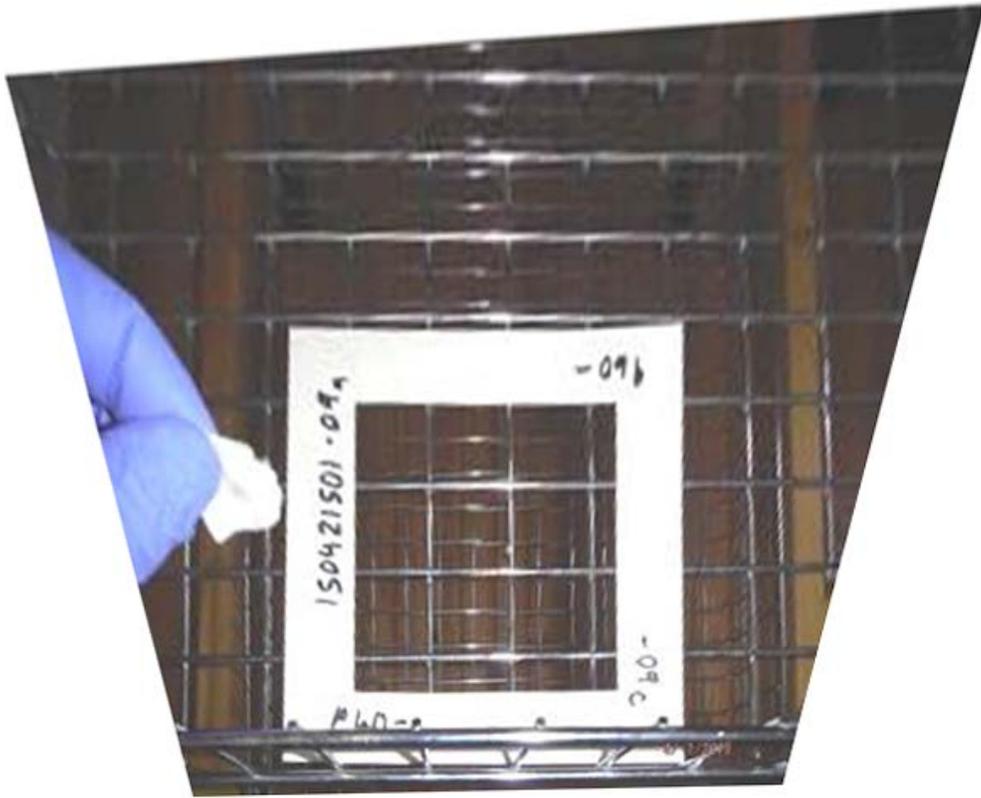
The consultant failed to collect areas that were 100 cm², as required by regulation. Thus, for example, in the photograph below, we see astonishingly incompetent sampling procedures:



QUEST Photograph

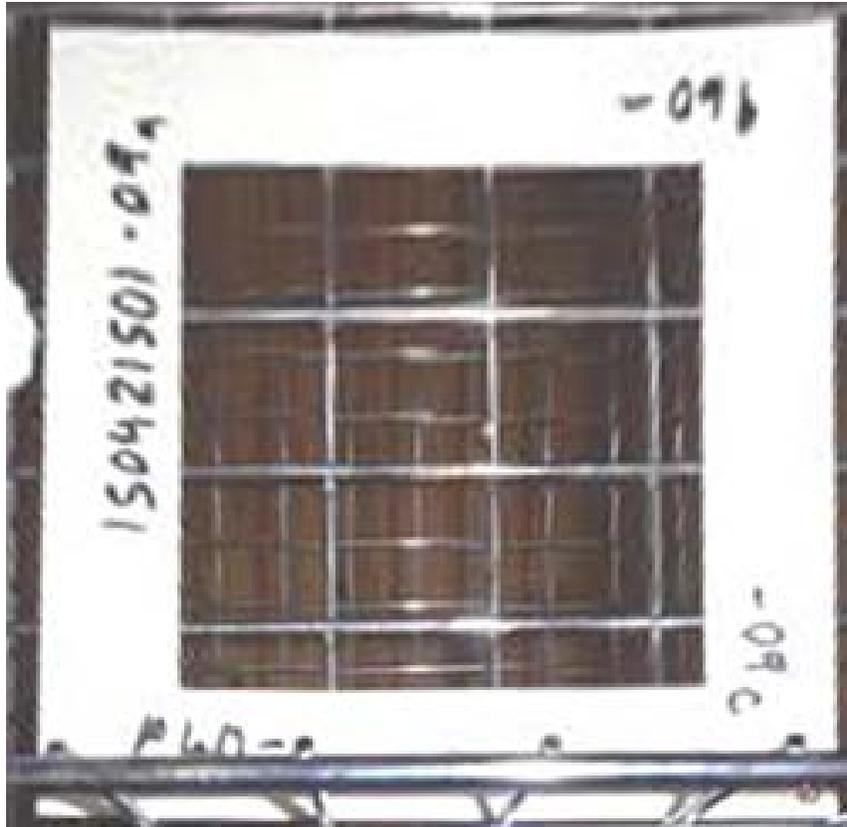
As can be seen in the photograph, the sample is not surface at all but mostly just empty space, and although Mr. Woellner falsely claimed the surface area is 100 cm², the amount of surface area is actually miniscule.

Since QUEST has identified the template as a 10 cm by 10 cm template, we can use the template as a reference scale and determine the actual surface area from which the sample was collected. To do this we begin by using distortion correction software to remove perspective and place the template within line of sight perpendicular to the surface area:



QUEST Photograph
Perspective Corrected by FACTs

Next, we scale the photograph using the template as a reference:



QUEST Photograph
Perspective Corrected by FACTs
The following reference line represents 10 cm:



We now can measure the actual surface area:

Three horizontal wires at 0.15 cm by 10 cm (planar) = 4.5 cm²

Three vertical wires at 0.15 cm by 10 cm (planar) = 4.5 cm²

Therefore, the total surface area is a mere 9 cm², and not 100 cm² as falsely claimed by Mr. Woellner.

This is a common practice used by Mr. Woellner to hide contaminated properties that are actually heavily contaminated and noncompliant (see for example the FACTs audit for 100 W. Spaulding Street, Lafayette, Colorado, wherein Mr. Richen (Boulder County Health) and Ms. Brisnehan (CDPHE) knowingly helped to hide the falsified data prepared by Mr. Woellner for that property.)

Now, let's look at what happens to the math when a consultant falsifies their data and claims they have collected 100 cm² and cleared the item when they have actually collected less than claimed.

$$\text{Concentration} = \frac{\text{Mass recovered } \mu\text{g}}{\left(\frac{\text{Area sampled cm}^2}{100}\right)} = \mu\text{g}/100 \text{ cm}^2$$

Let's say the consultant sampled this baker's rack and reported the result was way below the cleanup standard, say, 0.2 $\mu\text{g}/100\text{cm}^2$ - and was therefore compliant.

Here is how the consultant falsifies the data – the consultant falsely tells the laboratory the sample area is 100 cm^2 . The laboratory analyzes the sample, finds 0.2 micrograms and reports the total micrograms and then, for untrained consultants such as Mr. Woellner, the laboratory does the calculation for the consultant to convert the absolute mass into a concentration:

$$\text{Concentration} = \frac{0.2 \mu\text{g}}{\left(\frac{100\text{cm}^2}{100}\right)} = 0.2 \mu\text{g}/100\text{cm}^2$$

However, as noted above, the surface area is not 100 cm^2 , it is really 9 cm^2 . So now let's look and see what the concentration of the contaminant actually is on that surface:

$$\text{Concentration} = \frac{0.2 \mu\text{g}}{\left(\frac{0.09 \text{ cm}^2}{100}\right)} = 2.2 \mu\text{g}/100\text{cm}^2$$

As can be seen, although the laboratory still finds the exact same mass of methamphetamine, the concentration is actually four times over the regulatory limit, and not one half as apparently claimed.

Since the laboratory has no knowledge of the size of the sample, except as identified by the consultant, the consultant can manipulate the data anyway he wants by providing the laboratory with false areas.

This is precisely what Mr. Woellner did on this project to “clear” areas. For example, Mr. Woellner initially claims he cleared the crawlspace during the Preliminary Assessment and falsely claimed the sample result for the crawlspace was 4.0 $\mu\text{g}/100\text{cm}^2$. However, that is not correct.

Mr. Woellner never collected 400 cm^2 from the crawlspace as claimed, according to his report, Mr. Woellner only collected 100 cm^2 from the crawlspace during the Preliminary Assessment, and falsely claimed he collected 400 cm^2 ; the other three aliquots were collected from an area on the main level. But Mr. Woellner claims that Sample-02b was from the crawlspace, so for the sake of argument, we will concede that point, and say two samples, each of 100 cm^2 were collected from the crawlspace.

-02a Central Closet – Door handle to Mr. Olson's unit	February 24, 2015	4.0 $\mu\text{g}/100 \text{ cm}^2$
-02b Crawl Space – Access hatch frame	February 24, 2015	4.0 $\mu\text{g}/100 \text{ cm}^2$
-02c Central Closet – Top of hot water heater	February 24, 2015	4.0 $\mu\text{g}/100 \text{ cm}^2$
-02d Crawl Space – Footing (concrete slab)	February 24, 2015	4.0 $\mu\text{g}/100 \text{ cm}^2$

For that sample, the laboratory reported recovering 15.8 µg from the four part composite sample (see excerpt from the laboratory report below).

<i>Sample Label</i>	<i>Sample Area square centimeters</i>	<i>Methamphetamine</i>		<i>% Surrogate Recovery</i>
		<i>micrograms</i>	<i>ug/100 cm²</i>	
150221508-01	400	1.73	0.43	108
150221508-02	400	15.8	4.0	105
150221508-03	400	6.40	1.6	105

Thus, the analytical sample result of 15.8 µg is from two 100 cm² areas from the crawlspace and two 100 cm² areas from the main level. Mr. Woellner reported that the main level area had a concentration of 0.43 µg/100cm² (Sample ID 150221508-01).

Therefore, each of the two aliquots from the main level, which were unlawfully combined into the crawlspace composite, contributed 0.4 µg to the crawlspace composite result for a total of 0.8 µg.

We subtract that mass from the total of 15.8 absolute µg to get the actual mass recovered as contributed from the two crawlspace aliquots; that leaves 15 µg absolute. We then plug that mass back into the calculation for concentration for the crawlspace based on the two aliquots actually collected from the crawlspace:

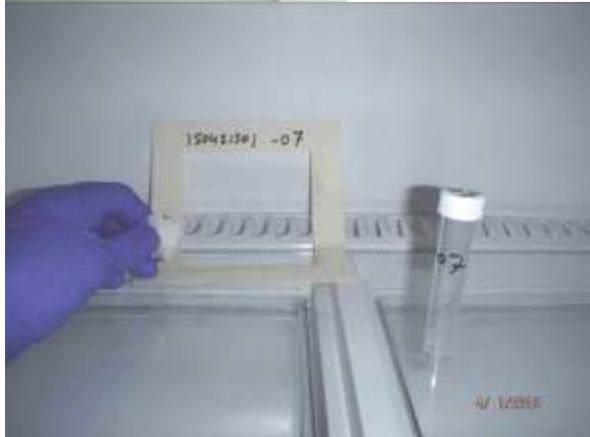
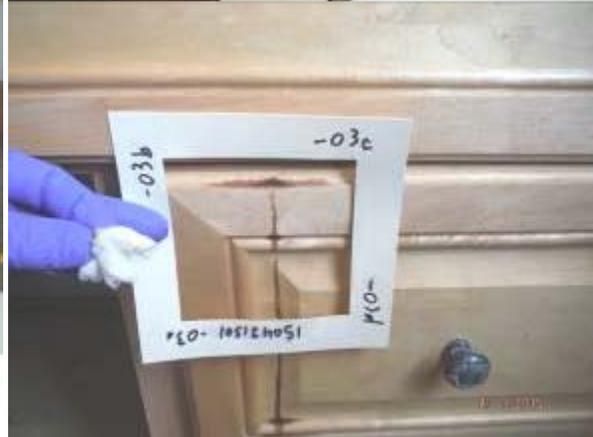
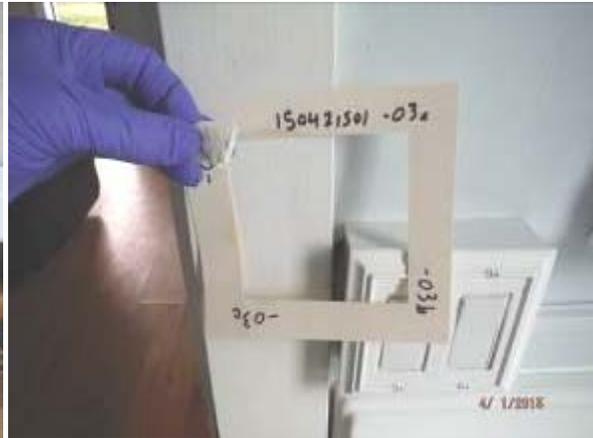
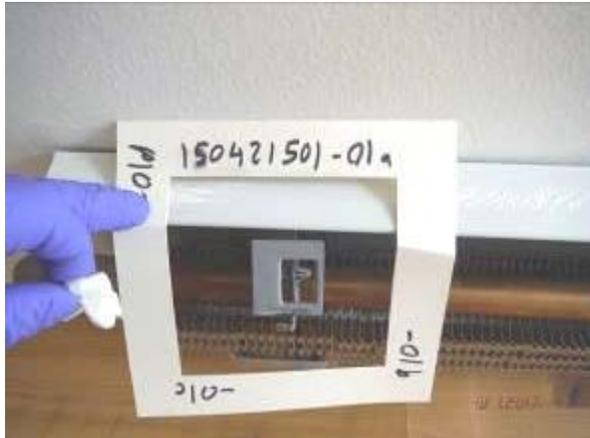
$$\text{Concentration} = \frac{15 \mu\text{g}}{\left(\frac{200 \text{ cm}^2}{100}\right)} = 7.5 \mu\text{g}/100\text{cm}^2$$

And we see that the sample results for the crawlspace were not 4 µg/100cm² as falsely claimed by Mr. Woellner, but rather were almost two times over the regulatory limit for a crawlspace: 7.5 µg/100cm². In fact, since only one of the aliquots was actually collected from the crawlspace, the concentration of the methamphetamine in the crawlspace is actually not less than 15 µg/100cm².

Since Mr. Woellner has no concept of Industrial Hygiene and otherwise doesn't have a clue about any technical aspects of such sampling, he has no idea that the crawlspace was never compliant and he cleared the crawlspace anyway, in spite of the elevated contamination.

Then, for this property, in violation of 6.9.1, Mr. Woellner went back after remediation and collected a single two part composite for the crawlspace, and claimed that the 100 cm² preremediation aliquot could be combined with the 2 100cm² post remediation aliquots to equal a single 400 cm² aliquot. Obviously, fourth grade math would indicate that cannot be the case, and Mr. Woellner simply falsified his data and never cleared the crawlspace.

We see that Mr. Woellner has accomplished a similar discrepancy with the following samples:



QUEST Photographs



QUEST Photographs

Violation of Section 6.2.2 (28 Violations)

According to the regulations, during the collection of clearance samples, the consultant is prohibited from certain actions.

6.2.2 ... Physical templates may not be re-used.

A legitimate Industrial Hygienist would have known that reusing a template would be contrary to good Industrial Hygiene sampling. This consultant, however, as documented elsewhere^{11,12,13,14,15,16,17} and as evidenced by the photographs above, in violation of §6.2.2 regularly reuses his templates and reused his templates a total of 28 times during the clearance process at the subject property.

Violation of Section 6.2.3 (9 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to perform specific sampling tasks including:

6.2.3 Prepare a rough sketch of the area(s) to be sampled and indicate sample location(s).

For this property, Mr. Woellner claims he collected 39 aliquots for clearance (including the invalid “Clearance” samples collected during the invalid “Preliminary Assessment”). Therefore, there should be a minimum of 39 sample locations indicated on the drawings in his report. However, there are only 32 sample locations identified in the drawings. Therefore, the locations of nine samples are missing from the drawings in Mr. Woellner’s report for this subject property.

Violation of Section 6.2.7 Second Pass (39 violations)

According to the State Regulations, the Consultant is required to wipe each area three times, following three specific patterns. The regulations read -

¹¹ See for example: 8347 S Reed Street, Unit 2, Littleton CO 80128

¹² See for example: 11767 Grant Street, Northglenn, Colorado 80233

¹³ See for example: 48400 Routt County Road 56C, Steamboat Springs, CO 80487

¹⁴ See for example: 771 Cleveland Circle Lafayette, CO 80026

¹⁵ See for example: 410 Garfield Avenue, Carbondale, CO 81623

¹⁶ See for example: 413 South Buffalo Street, Yuma, Colorado 80759

¹⁷ See for example: 1138 32nd Street, Unit 201, Denver, Colorado 80205

6.2.7 Wipe the surface using one of the following methods:

6.2.7.1 Square method: Start at the outside edge and progress toward the center of the surface area by wiping in concentric squares of decreasing size.

6.2.7.2 “S” method: Wipe horizontally from side-to-side in an overlapping “S”-like pattern as necessary to completely cover the entire wipe area.

6.2.8 Without allowing the sample media to come into contact with any other surface, fold the sample media with the sampled side in.

6.2.9 Use the same sample media to repeat the sampling of the same area using the same method. If using the “S” method, the second pass shall be sampled by wiping with overlapping “S”-like motions in a top-to-bottom direction.

6.2.10 Fold sampled side in. Using the same sample media, sample the same area a third time. The third pass shall be sampled by wiping using the method not previously used (i.e., use the square method if the “S” method was originally used).

There is nothing in the report that indicates this requirement was performed during Post Decontamination sampling. Indeed, for several of the samples pictured in the report, it would have been physically impossible to have collected the sample using either a concentric pattern OR an “S” like manner. Just two examples where mandatory sampling would have been impossible are given below:



QUEST Photographs

Violation of Section 6.2.7 Third Pass (39 violations)

According to the State Regulations, after the first two passes, the Consultant is required to wipe each area a third time; the regulations read -

6.2.10 Fold sampled side in. Using the same sample media, sample the same area a third time. The third pass shall be sampled by wiping using the method not previously used (i.e., use the square method if the “S” method was originally used).

There is nothing in the report that indicates this requirement was performed. Indeed, for several of the samples pictured in the report, it would have been physically impossible to have collected

the sample using either a concentric pattern OR an “S” like manner. Just two examples where such sampling would have been physically impossible are given below:



QUEST Photographs

Violation of Section 6.2.11 (7 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to perform specific sampling tasks including:

6.2.11 ... Place the sample media in a sample container, cap and number it, and note the number at the sample location **on the sketch**.

For this property, Mr. Woellner claims he collected 39 aliquots. Therefore, there should be a minimum of 39 sample locations indicated on the drawings in his report. However, there are only 32 sample locations identified in the drawings. Therefore, the locations of seven samples are missing from the drawings in Mr. Woellner’s report for this subject property.

Violation of Section 6.2.11 Times (39 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to perform specific sampling tasks including:

6.2.11 ... Include notes with the sketch giving any further description of the sample, **including sample name and time of collection**...

For this property, Mr. Woellner failed to identify the times of any samples collected. Since there should have been a minimum of 39 aliquots, there would have been a minimum of 39 sample collection times recorded.

Violation of Section 6.2.14.5 (5 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14 Maintain a Chain-of-Custody Record covering the time of sample collection through final disposition. ... At a minimum, the Chain-of-Custody Record shall include the following:

6.2.14.5 sample area;

In the chain-of-custody, Mr. Woellner falsely identifies the total sampling areas 400 cm² for Sample 01, 03, 09 and 11, and 100 cm² for Sample 07. However, since the individual aliquots were not 100 cm², the reported sample surface area on the chain-of-custody for these five samples could not have been as identified on the chain-of-custody.

Violation of Section 6.2.14.6 (14 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14.6 number of sample aliquots;

There are no aliquots identified for any of the samples anywhere on of the chain-of-custody.

Violation of Section 6.2.14.7 (14 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14.7 number of containers for each sample;

Nowhere on the chain-of-custody did Mr. Woellner provide the laboratory with the number of containers (the laboratory acknowledged receiving a specific number, however Mr. Woellner failed to provide the laboratory with the number of containers being provided.)

Violation of Section 6.2.14.8 (14 collection time violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14.8 sample collection time ...

Sample collection time was not included on the chain-of-custody for any of the samples.

Violation of Section 6.2.14.8 (14 collection date violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14.8 sample collection ...date

Sample collection date was not included on the chain-of-custody for any of the samples.

Violation of Section 6.2.14.9 (14 violations)

According to the regulations, during the collection of clearance samples, the consultant is required to provide specific information including:

6.2.14.9 sample matrix;

Sample matrix was not included on the chain-of-custody for any of the samples (the use of the word “matrix” on the laboratory report to indicate a “wipe,” is different from the word “matrix” as found in the regulations).

Violation of Section 6.3.5 (8 violations)

According to the regulations, the consultant is required to collect samples in a specific, mandatory manner:

6.3.5 All aliquots in a single composite sample collected from personal property must be collected from similar material (non-porous, porous other than textiles/fabrics, and textiles/fabrics).

For this property, Mr. Woellner collected the following samples from personal property –

08a - porous material from the leather couch

08b- non porous varnished wood

08c –non porous varnished wood

08d- non porous varnished wood

09a - air sample – (only 9cm² of nonporous surface was included)

09b- non porous varnished wood

09c – non porous varnished wood

09d- non porous varnished wood

Violation of Section 6.3.6 (8 violations)

According to the regulations, the consultant is required to collect samples in a specific, mandatory manner:

6.3.6 Collect all individual aliquots from 100 cm² sampling areas.

As already addressed earlier in this audit, for this property, Mr. Woellner failed to collect 100cm² samples for the following aliquots:

01a

03a

03c

03d

07a

09a

09b

11a

Violation of Section 6.5

According to the regulations, the consultant is required to perform specific sampling based on information obtained in the Preliminary Assessment.

6.5 Vapor Sample collection procedures. If the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, vapor samples for

mercury shall be collected in accordance with the procedures for sample collection described in NIOSH Method 6009 as incorporated in Section 9 of this Part 1.

In his Preliminary Assessment report, Mr. Woellner stated that he did not know the methamphetamine manufacturing process used, and he made no documentable attempts to find out what the manufacturing process may have been.

As already discussed, the consultant in question, Mr. Woellner, is a geologist with no documented training or specialized experience in Industrial Hygiene or illegal drug laboratories or their assessment. Mr. Woellner has no documented training even in the pertinent regulations. Not including this audit, since December 15, 2014 - the effective date of the revised regulations - FACTs, Inc. has reviewed eight reports by Mr. Woellner, and identified no fewer than 1,643 – (one *thousand* six hundred and forty three) - regulatory violations in those eight reports. Therefore, there is no expectation Mr. Woellner would possess the necessary skill set needed to identify the presence of a P2P laboratory. Therefore, it would have been impossible for Mr. Woellner to comply with this clearance provision.

Violation of Section 6.9 (Failure to Verify Clean-up Standards)

According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

6.9 Clearance level sampling protocols for buildings and personal property. The Consultant shall conduct clearance level sampling of any subject property that meets the definition of a methamphetamine-affected property, or that is suspected of being a methamphetamine-affected property as provided in Sections 3.2, 3.3 or 3.4 of this Part 1, to verify that cleanup standards have been met.

As described in this audit, and as described in the audit of the invalid “Preliminary Assessment” for this property, the consultant failed to verify that cleanup standards have been met and assumed compliance for several areas for which he never collected any samples of any kind at any time.

Violation of Section 6.9 (Failure to Sample All Structures – 2 violations)

According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

6.9 Clearance level sampling protocols for buildings and personal property.
...If the subject property is a single family dwelling, the Consultant shall conduct clearance sampling of all structures on the

For this property, Mr. Woellner failed to sample the two outbuildings on the property. Indeed, as described in the audit of the invalid Preliminary Assessment, Mr. Woellner entirely failed to even include the two outbuildings in the assessment. In violation of the regulations, Mr. Woellner simply declared the buildings compliant without any rationality or sampling.

Violation of Section 6.9.1 (10 violations)

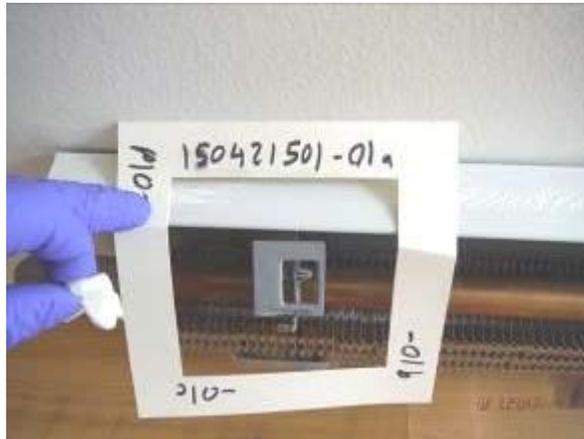
According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

6.9.1 Except as provided in Section 6.9.1.1, at least 400 cm² of surface area shall be sampled from every room, attic, and crawl space.

For this property, Mr. Woellner failed to collect 400 cm² from the following areas:

1. Crawlspace (two samples for 200cm²)
2. Identified Ducted Ventilation (no samples collected)
3. Mr. Olsen's Kitchen (Single 100cm² sample)
4. Mr. Olsen's Living areas (three samples for 280 cm²)
5. Out Building 1 (no samples collected)
6. Out Building 2 (no samples collected)
7. Second floor areas (no samples collected)
8. Tenant Space Bathroom (343 cm²)
9. Tenant Space Bedroom (indeterminable, approximate 325 cm²)

For this space, we say "indeterminable" simply because the sample was so grossly in violation there is little point in actually calculating the area (see photograph below):



QUEST Photograph

However a rough estimate would be 25 cm² of surface area was sampled, and therefore the total surface area sampled would be about 25 cm².

10. Tenant Space Living Room – Kitchen

Violation of Section 6.9.4 (4 violations)

According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

6.9.4 For buildings and structures that have forced air ventilation systems, at least 400 cm² of surface area of the ventilation system shall be sampled, unless the entire ventilation system is removed.

In his report, Mr. Woellner identifies the forced air system and states:

If the central heat system ducting is removed, install critical barriers on the upper (floor) side of the vent holes and maintain the critical barriers in good condition until the entire structure meets the cleanup criteria;

For this property, Mr. Woellner failed to collect the following samples from the ventilation system as required:

1. within the heat exchanger unit
2. inside the cold air return system
3. inside the supply air system
4. One additional sample at consultant's discretion

Therefore, the ventilation system was never cleared and remains contaminated.

Violation of Section 6.9.6 (2 violations)

According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

6.9.6 Composite samples may be used for clearance sampling of rooms, attics, crawl spaces, and personal property, **provided all aliquots comprising a composite sample come from the same room, attic, or crawl space.**

For this property, Mr. Woellner combined the following areas for clearance:

1. Crawlspace aliquots were combined with Central Closet aliquots
2. Mr. Olsen's living room combined with Mr. Olsen's kitchen

Violation of Section 6.9.7 (4 violations)

According to the regulations, during the clearance process, the consultant is required to perform specific sampling including:

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.

Clearly visible in the photograph below, is a major appliance that has not been accounted for. The appliance is not the refrigerator (also visible in the photograph) and is not the stove (also visible). Since Mr. Woellner failed to identify all appliances in the property, only Mr. Woellner would know what this appliance may be. However, in any case since samples were only collected from the refrigerator and the stove; this unidentified appliance was not cleared, and was not otherwise addressed.



QUEST Photograph

Furthermore, according to Ms. Colleen Brisnehan with the CDPHE, the regulations specifically require the collection of samples from the exterior of appliances. Although Ms. Brisnehan has been unable to actually cite any portion of the regulations to support the requirement, according to Mr. Dan Miller with the Attorney General's Office, Ms. Brisnehan is permitted to interpret the regulations any way she may personally choose (which of course means the interpretation may change from day to day). Nevertheless, the CDPHE has established, in writing, that the regulations require samples from the exterior of the appliances.

For this property Mr. Woellner failed to collect the mandatory samples from the exterior of the three appliances in the property.

Violation of 6.9.11.1 (21 violations)

According to the regulations, during the clearance process, the consultant is required to collect samples from specific locations including:

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

It should be remembered that this consultant has never been able to document any training in the assessment of illegal drug laboratories (methamphetamine affected properties), and openly has admitted that he is not an Industrial Hygienist (and therefore, was not permitted to perform any sampling at the property in the first place and did not meet the requirements for Interim Authorization from the State). The gross incompetence exhibited by the consultant on this property demonstrates the problem of allowing untrained consultants to perform work under the personal protection of the CDPHE.

For this property, several of the samples were collected from areas that have a very low expectation of being contaminated even in an otherwise contaminated property:

1. 01a
2. 01b
3. 01c
4. 01d

5. 02a
6. 02b
7. 02d
8. 03a
9. 03b
10. 03c
11. 03d
12. 04b
13. 04c
14. 05a
15. 05b
16. 07a
17. 09b
18. 11a
19. 11b
20. 13c
21. 13d

A good example illustrating this concept is the fact that the contamination of the crawlspace was originally confirmed as being at least $7.5 \mu\text{g}/100\text{cm}^2$ (see the FACTs discussion on the invalid “Preliminary Assessment”). In fact, when properly calculated the contamination level in the crawlspace is about $15 \mu\text{g}/100\text{cm}^2$. The crawlspace was never cleaned, and was explicitly excluded by Mr. Woellner in the cleanup process.

Based on the available documentation, it would appear that Mr. Woellner first (unlawfully) wiped clean two areas on PVC pipes in the crawlspace and then sampled those two areas.

Violation of 6.9.11.1 (7 violations)

According to the regulations, during the clearance process, the consultant is required to collect samples from specific locations including:

6.9.11 ... Samples **shall** be collected from surfaces that have a reasonable potential to contribute to human exposure, including:

6.9.11.2 Areas where contamination may have migrated, such as adjacent rooms or units, common areas, shared attics, shared crawl spaces, shared ventilation systems, and units connected to the contaminated unit by such attics, crawl spaces, or ventilation systems.

For this property, Mr. Woellner failed to comply with this provision by failing to collect samples from adjacent rooms or units (Mr. Olsen’s Unit is “separated” by a common residential door and contamination clearly migrated through that door), common areas, shared crawl space, shared ventilation systems; and Mr. Olsen’s Unit is connected to the contaminated unit by common ventilation and contamination could clearly have migrated into the upstairs portion of the residence. In all, Mr. Woellner failed to clear the following areas:

1. Crawlspace
2. Identified Ducted Ventilation
3. Mr. Olsen's Kitchen
4. Mr. Olsen's Living areas
5. Out Building 1
6. Out Building 2

7. Second floor areas

Violation of 6.9.11.3

According to the regulations, during the clearance process, the consultant is required to collect samples from specific locations including:

6.9.11.3 Personal property that will not be disposed of, ...

As already mentioned, Mr. Woellner failed to address the personal belongings in Mr. Olsen's Unit and the two out buildings. Additionally, based on the photographs provided in the report, there appears to be personal items in the crawlspace that were not addressed.

Violation of 7.1.1

According to the regulations, during the clearance process, the consultant is required to collect samples from specific locations including:

7.1 The methamphetamine concentration of any sample shall not exceed 0.5 µg /100 cm², except as provided in Sections 7.1.1 and 7.1.2 below.

7.1.1 Methamphetamine concentrations of samples taken from limited exposure areas shall not exceed 4 µg /100 cm².

As already discussed, for this property Mr. Woellner failed to collect 400 cm² of post decontamination samples for various areas, including the crawlspace. The two post decontamination samples collected from the crawlspace cannot be lawfully used with the two "Preliminary Assessment" samples for two primary reasons:

- 1) The two pre-decontamination samples were unlawfully combined with two aliquots from another room. The actual results of the crawlspace samples (as discussed in detail in our audit of the Preliminary Assessment), actual show the contamination is not less than 7.5 µg/100cm², and actually as elevated as 15 µg/100cm².
- 2) The regulations would have allowed the collection of FOUR samples collected prior to cleaning, provided the following conditions were met:

7.4 In all buildings, if clearance-level sampling has been conducted and the results demonstrate that one or more rooms meet the cleanup standard in Section 7 of this Part 1, the rooms that meet the standard do not need to be decontaminated, provided that they are isolated from the remainder of the building in a manner that will prevent cross-contamination from decontamination activities elsewhere in the building.

In this property, the above was never performed and the crawlspace was not isolated. Therefore, even if Mr. Woellner had collected four legitimate samples from the crawlspace which demonstrated compliance, he would have been require to collect four additional samples post-decontamination since the contaminated area was never isolated from the "compliant" areas in the structure.

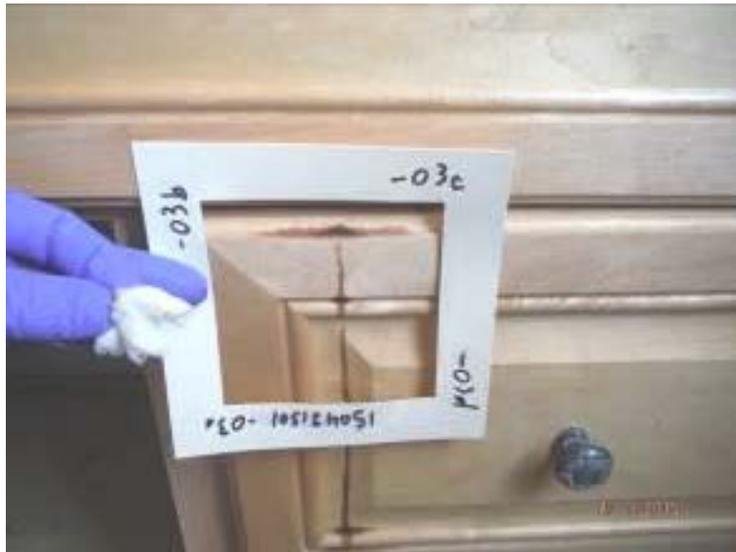
Similarly, all other areas in Mr. Olsen's units would similarly need to be cleared, since the work area was never isolated as required, and as described later in this audit.

Failure to Comply with Section 7.2

According to the regulations, the consultant is required to perform specific sampling based on site conditions including:

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 $\mu\text{g}/100 \text{ cm}^2$.

Since the consultant has no documentable training in the assessment of illegal drug laboratories there is no expectation that Mr. Woellner would possess the necessary skill set to identify iodine. In fact, at least one of Mr. Woellner photographs clearly indicates evidence of iodine contamination on materials or surfaces that were not to be removed; since Mr. Woellner has no documented training in illegal drug laboratories he failed to recognize the staining in the following photograph for what it was:



QUEST Photograph

Failure to Comply with Paragraph 7.3

According to the regulations, the consultant is required to perform specific sampling based on site conditions including:

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 $\mu\text{g}/\text{ft}^2$, and vapor samples for mercury shall not exceed a concentration of 1.0 $\mu\text{g}/\text{m}^3$.

Since Mr. Woellner has no documentable knowledge or training regarding illegal drug laboratories and is not an Industrial Hygienist (and was therefore not authorized to even perform the work), and failed to determine the manufacturing method, there would have been no expectation that Mr. Woellner would have been capable of complying with this provision.

Failure to Comply with Paragraph 7.4 (14 Violations)

According to the regulations, the consultant is permitted to make certain decisions regarding compliant areas, provided specific conditions are met:

7.4 In all buildings, if clearance-level sampling has been conducted and the results demonstrate that one or more rooms meet the cleanup standard in Section 7 of this Part 1, the rooms that meet the standard do not need to be decontaminated, **provided that they are isolated from the remainder of the building in a manner that will prevent cross-contamination from decontamination activities elsewhere in the building.**

As described below, to the extent that the documentation provided failed to identify any isolation practices, in violation of regulations, for this property, no isolation techniques were used. Therefore, any of the areas Mr. Woellner falsely claimed were compliant during the Preliminary Assessment or on April 1, 2015, would have required post-decontamination clearance. In his report, Mr. Woellner acknowledges that he was aware of this requirement:

If additional decontamination is conducted, the Consultant must repeat the clearance sampling. Decontamination is not complete until contaminated materials have either been removed or decontaminated to meet the standard.

And yet, Mr. Woellner ignored this provision. As it is, in his report, Mr. Woellner stated that some of the “clearance” samples were non-compliant and the property was re-cleared without isolating the noncompliant areas from the compliant areas. As such, none of the April 1, 2015 samples remained valid for clearance after April 1st, and those areas were not subjected to post-decontamination sampling as required. Therefore, the following samples cannot be used for clearance:

1. -04a Central Closet – Top of hot water heater
2. -04b Central Closet – Top of cabinet framing
3. -04c Central Closet – Floor by crawl space access hatch
4. -04d Central Closet – Closet shelf
5. 150221508-02b Crawl Space – Access hatch frame
6. 150221508-02d Crawl Space – Footing (concrete slab)
7. -05a Crawl Space
8. -05b Crawl Space
9. -06 Stove Interior
10. -07 Refrigerator Interior
11. -08a Contents – Leather couch armrest
12. -08b Contents – TV stand
13. -08c Contents – Bed frame
14. -08d Contents – Dresser

Violation of Section 8

According to the Regulations, the Consultant is required to provide specific information in the Post Decontamination Report:

8.0 Post-Decontamination Reporting. The Consultant **shall** prepare a Post-Decontamination Report, **in conjunction with the** Contractor, to document the decontamination process and demonstrate that the entire subject property meets the cleanup standards listed in Section 7.0 of this Part 1. The Post-Decontamination Report shall include, but not be limited to, the following, to the extent available and applicable:

For this property, the appendix that contains the Decontamination report by Elite Environmental Services, Inc. provides virtually none of the information required by regulations.

Furthermore, according to Mr. Woellner, decontamination activities continued sometime between April 1, 2015 and April 15, 2015; yet, the Elite Environmental Services, Inc. post decontamination report was prepared before the work was conducted; the Post Decontamination report was issued on March 12, 2015, before the decontamination work was started.

Therefore, the document cannot conceivably document the decontamination process as required, since the Decontamination Contractor issued their decontamination report before work began. As such, it is not surprising that virtually none of the mandatory documentation was included. As it is, the Elite Decontamination Summary simply contains the following boiler-plate language about what it is planning on performing at the site and does not contain any site specific information as required:

WORK PROCEDURES:

- 1. Primary entrance/exit to the residence will be through the back door.*
- 2. Negative air pressure will be established with HEPA machines.*
- 3. Items to be disposed of will be bagged or covered with 6 mil polyethylene sheeting and taken to the landfill at Tower Road.*
- 4. All remaining surfaces will be cleaned with separate washes with Suprox, Simple Green, and Method All Purpose Cleaner.*
- 5. Rinse remaining surfaces with water.*
- 6. MSDS sheets will be present on site.*
- 7. Upon approved low-level samples, equipment will be removed from residence.*

Violation of Section 8.2

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report:

8.2 Photographic documentation of post-decontamination property conditions, including previously identified cooking areas, chemical storage areas, waste disposal areas, areas of obvious contamination and sample locations.

Site Conditions:

Only two Post Decontamination photographs were taken at the site to document post-decontamination property conditions. According to Mr. Woellner, decontamination activities continued after April 1, 2015 at the property. Yet there are only two photographs in the report that show site conditions after April 1, 2015.

As already described, decontamination work continued without isolating any of the claimed compliant areas. Therefore, Post Decontamination conditions did not exist until after April 1, 2015 and yet, there are only two photographs (apparently dated April 16, 2015) showing site conditions; those photographs are reproduced below:



QUEST Post Decontamination Photographs (April 16, 2015)

The report fails to provide Post Decontamination site conditions for the following areas:

1. Crawlspace
2. Identified Ducted Ventilation
3. Mr. Olsen's Kitchen
4. Mr. Olsen's Living areas
5. Out Building
6. Out Building
7. Second floor areas
8. Tenant Space Bedroom
9. Tenant Space Central Room
10. Tenant Space Living Room

Previously Identified Cooking Areas: (1 violation)

There is no indication that any Post Decontamination photographs were taken at the site to document the areas previously identified by law enforcement where the “one-pot” method was found.

Chemical Storage Areas: (1 violation)

There is no indication that any Post Decontamination photographs were taken at the site to document the areas previously identified by law enforcement where the “one-pot” method was found.

Waste Disposal Areas: (1 violation)

There is no indication that any Post Decontamination photographs were taken at the site to document waste disposal areas.

Areas of Obvious Contamination: (1 violation)

There is no indication that any Post Decontamination photographs were taken at the site to document areas of obvious contamination.

Violation of Section 8.3

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

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

In his report, Mr. Woellner simply inserted boiler plate language and there is no description of the sampling procedures used, including sample collection, handling, and QA/QC for any of the samples.

Violation of Section 8.5

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.5 Results of post-decontamination clearance sampling, including a description of sample locations and a computer generated figure with sample locations and identification, and a copy of each laboratory report of post-decontamination sample results.

As already mentioned, there are no figures showing the crawlspace sample locations.

Violation of Section 8.6

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6 The Contractor shall provide an electronic copy of a Decontamination Summary Report, containing the following information, to the Department and to the Consultant within thirty (30) days of completion of decontamination work at the subject property for inclusion in the Post-Decontamination Report:

The mandatory information is missing from the report as described below.

Violation of Section 8.6.1 (Photographs Missing)

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.1 A description and photographic documentation of the decontamination procedures used ...

The mandatory photographic documentation is missing from the QUEST report.

Violation of Section 8.6.1 (Descriptions Missing)

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.1 A description and photographic documentation of the decontamination procedures used **and a description of each area that was decontaminated.**

Not only are the mandatory photographs missing but there is no description of each area that was decontaminated.

Violation of Section 8.6.2 (3 violations)

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

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

1. There is no description of the removal procedures used,
2. There is no description of areas where removal was conducted,
3. There is no description of the materials removed.

Violation of Section 8.6.4

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.4 A description of the waste management procedures used, including characterization, handling and final disposition of wastes. **Copies of the waste manifests or bills of lading shall be included in the final report.**

No waste manifests are provided in the report as required by regulations.

Violation of Section 8.6.5

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.5 Evidence of Contractor certifications in accordance with Part 2 of these regulations.

No evidence of Contractor certifications are included in the report as required by regulations.

Violation of Section 8.6.6

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.6 Documentation of variations from standard practices.

In this discussion, FACTs has documented no fewer than 366 violations – each a variation from standard practice. Yet nowhere in the report is there documentation of variations as required.

Violation of Section 8.6.7

According to the Regulations, the consultant is required to provide specific information in the Post Decontamination Report including:

8.6.7 A certification statement, signed by the Decontamination Supervisor who oversaw the work, in the following form:

The mandatory certification is missing from the documentation.

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

Mr. Woellner has repeatedly held himself out to be an Industrial Hygienist, while simultaneously claiming that he is not an Industrial Hygienist. As documented in this review (and in other historical documents referenced in this review) there is nothing in the present documentation that would indicate that Mr. Woellner is, in fact, an Industrial Hygienists meeting the State definition.

The incompetence demonstrated in the QUEST report should be sufficient to demonstrate that Mr. Woellner is not an Industrial Hygienist and is not competent to perform the work and may be falsely representing herself as an Industrial Hygienist (interim authorization notwithstanding).

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)).

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 at the subject property: 1) Either Mr. Woellner knew that the work he was performing was grossly incompetent and not in compliance with State Regulations (as demonstrated above) or, 2) Mr. Woellner was unaware of the fact that his work was deviating from mandatory State requirements.

If Mr. Woellner did not know that his work was deviating from mandatory State requirements, then that is sufficient to surmise that he lacked the technical competency and therefore authority to perform the work in the first place since it was his professional obligation to conform to those regulations and perform work pursuant to those regulations.

However, since Mr. Woellner has specifically referenced 6 CCR 1014-3 and explicitly stated that he was aware of those requirements and since FACTs has identified thousands of regulatory violations in the past, one must conclude that Mr. Woellner knowingly and willingly performed work that deviated from mandatory State requirements.

According to Colorado Revised Statute §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 “Post Decontamination Report” must be filed with the State of Colorado (indeed the report we reviewed was obtained from the State of Colorado through the Colorado Open Records Act) Therefore, we believe the facts objectively establish that Mr. Woellner was aware of such recording and was aware of the false statements made therein.

Colorado Consumer Protection Act

In Colorado, consumers are protected against deceptive trade practices as delineated in the Colorado Consumer Protection Act, CRS Title 6, Article 1. According to those statutes, a person engages in a deceptive trade practice when, in the course of such person's business or occupation, that person knowingly makes a false representation as to the certification of their services, and/or knowingly makes a false representation as to the characteristics of their services and/or represents their services are of a particular standard, quality, or grade if he knows or should know that they are not as specified.

According to the *Colorado Department Of Regulatory Agencies, Office Of Policy And Research, Industrial Hygienists, And Safety Professionals 2001 Sunrise Review* (October 15, 2001) Mr. M. Michael Cooke, Executive Director stated:

Another avenue of redress is the Colorado Consumer Protection Act. This law prohibits individuals from misrepresenting their certification, abilities, and associations, and making false or misleading statements concerning the price of goods, services, or property. In addition, §6-1-707(1)(a)(I), C.R.S., prohibits an individual from claiming “either orally or in writing, to possess either an academic degree or an honorary degree of the title associated with said degree, unless the person has, in fact, been awarded said degree.” While this Act does not prevent individuals from performing industrial hygiene work, it does prohibit individuals from claiming that they have education or background that they do not possess. An individual who misrepresents his or her qualifications may be in violation of this Act. 18 18 § 6-1-105(1)(b), (c), (e) and (l), C.R.S.

The State regulations were revised in 2014 to counter the serious problem created by fraudulent and incompetent consultants who were falsely claiming to be “Industrial Hygienists” and who were performing invalid assessments under the false presentation of being an “Industrial Hygienist.”

Forensic Applications Consulting Technologies, Inc. (the author of this review), helped the State Legislature write the statutory language that eventually became codified and required the Colorado Department of Public Health and Environment (CDPHE) to revise the regulations. Unfortunately, the task for the revision was given to the CDPHE regulator who, in violation of Colorado's criminal statutes, had helped create the problem associated with fraudulent consultants performing assessments of methamphetamine affected properties..¹⁸

The regulations required the CDPHE to restrict Interim Authorization (for the period of time between December 15, 2014 and June 15, 2015) for performing assessments under the regulations exclusively to those consultants who were A) *bona fide* Industrial Hygienists, and B) had an history of performing valid assessments under the old regulations, which had been in effect since 2005. Instead, Ms. Coleen Brisnehan with the CDPHE gave *carte blanc* Interim Authorization to anyone who applied, including the fraudulent consultants who had created the serious problems in the first place. The problem was exacerbated by the fact that the consultant in question, Mr. Woellner, associates himself with a pseudo-professional commercial group called "Colorado Association of Meth and Mold Professionals" (CAMMP) which identifies Ms. Brisnehan as a Board Member of that group.¹⁹

Although Ms. Brisnehan granted her fellow CAMMP member automatic State Interim Authorization, Mr. Woellner has, in the recent past, denied that he is an Industrial Hygienist and has never been able to provide any documentation indicating that he has received any training in illegal drug laboratories or their assessment. As such, there is no expectations that the consultant would possess the necessary skills or knowledge to fulfill the regulatory requirements.

Finally, the consultant in question has never documented any training or experience that would permit him to identify himself as an Industrial Hygienist pursuant to State statutes CRS Statute §24-30-1402. In fact, until just very recently Mr. Woellner has never identified himself as an Industrial Hygienist and never claimed to be an Industrial Hygienist.

Regulation 6 CCR 1014-3 Language on Knowledge

Not only do the State regulations and pertinent standards mandate the use of the knowledge and skills possessed by a legitimate Industrial Hygienist (IH) for assessment of an identified illegal drug laboratory, the regulations repeatedly allude to the necessity of that IH being trained and knowledgeable in clandestine drug laboratory operations and contamination.

For example, the regulations explicitly refer back to the Consultant's "professional judgment," as follows, in various locations in regulation:

4.7 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, cooking areas, use areas, or the professional judgment of the Consultant. ...

¹⁸ See for example, the discussion here: http://www.forensic-applications.com/meth/Addendum_7_Woellner_11767_Grant.pdf

¹⁹ Ms. Brisnehan's conflict of interest is prohibited under Colorado Revised Statutes §24-50-117 *Prohibited activities of employees*

5.11.1.4.2 the personal property in question was located in a room that was determined to be below the cleanup standards specified in Section 7.0 of this Part 1 after being sampled in accordance with the clearance level sampling protocols and other requirements of Section 6 of this Part 1; and in the Consultant's judgment, the item is unlikely to have been contaminated from exposure elsewhere in the subject property,

7.5 If the composite sample result from a room is below the standard in this Section 7, personal property in the room is considered compliant if, in the Consultant's judgment, the personal property is unlikely to have been contaminated from exposure elsewhere in the subject property, given

If an individual is not an Industrial Hygienist, and if an individual has no documented training in illegal drug laboratories or their assessment, how, then, can one expect that consultant to possess the necessary skills needed to perform the professional role of an Industrial Hygienist in the assessment of illegal drug laboratories?

This becomes pertinent to this subject property since there was significant iodine contamination in the house, and that contamination went unrecognized by Mr. Woellner who failed to comply with the mandatory iodine assessment provisions of the regulations as is evidenced by the omission of this matter in his report.

In the past, Mr. Woellner has made several claims regarding his credentials and experience²⁰ that upon scrutiny, have been found to be unsupported.

CONCLUSION

For this regulatory audit of a Post Decontamination Report and Clearance Sampling by Mr. Robert Woellner, for the subject property located at 410 Garfield Avenue in Carbondale, CO 81623, FACTs has identified no fewer than 366 regulatory violations. The property was never assess as required by regulations prior to decontamination efforts, the property was never cleared as required by regulations. The property remains an illegal drug laboratory as defined by State statutes and State regulations.

²⁰ See for example, the discussion here: http://www.forensic-applications.com/meth/Addendum_7_Woellner_11767_Grant.pdf

Appendix A

Reviewer's Statement of Qualifications



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

185 Bounty Hunter's Lane, Bailey, Colorado 80421
PHONE: 303-903-7494 www.forensic-applications.com