

Doctor Pleads Guilty In Asbestos Case

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Klein Hired Transients To Remove Carcinogen From Buildings In Late 1990s

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A doctor who formerly owned two local pain clinics pleaded guilty Tuesday to using homeless workers to illegally remove asbestos from two buildings in downtown Staunton.

Dr. David Stephen Klein, 48, is the third person charged to plead guilty to the environmental crimes in U.S. District Court. The violations took place from 1996 until 1998, according to court documents.

Police in Staunton were first tipped off about the removal, and soon the state and federal environmental agencies began investigating the operation.

The doctor, now living in Florida, pleaded guilty to violating the Clean Air Act by illegally removing asbestos from the Masonic Building, located on Beverly Street. He also represented Davold Real Estate Partnership in pleading guilty to removing the regulated substance from the Town Centre building without properly wetting it down to prevent particles from being released into the air. The Town Centre building is on Augusta Street.

Klein and his wife Peggy jointly own Davold.

The combined maximum punishment for both charges is 10 years in prison and a \$750,000 fine. The court can figure the fine differently, based on doubling Klein's possible financial gain.

The doctor, who also routinely appeared on a local radio show years ago, was originally charged with seven counts related to the unlawful asbestos removal in the two buildings. The partnership was also charged with seven counts.

Some of the counts included the illegal dumping of the hazardous material at sites around Augusta County and Staunton, including dumpsters at Buffalo Gap High School.

Assistant U.S. Attorney Nancy Healy said the federal guidelines for sentencing would be the same whether Klein was convicted on one charge or all of the charges.

Last month Josef Gene Weiss, 48, of Harrisonburg, described as Klein's right-hand man, pleaded guilty to his part in the criminal abatement. He agreed to testify against his former employer if the scheduled three-week trial had moved forward.

Weiss' assistant, Daniel Lee Spittler, pleaded guilty in 2000 to conspiracy to illegally remove the asbestos.

Spittler is scheduled to be sentenced in July and Weiss in August.

The two men ran the work site, according to EPA special agents, recruiting the transient workers from the Valley Mission in Staunton and paying them in cash.

The hired hands were not properly trained or given equipment to remove the material which, when tested, contained between 5 and 70 percent asbestos. The federal law regulates any matter containing more than 1 percent asbestos.

Testimony Against Klein

Many were located and willing to testify against Klein before he pleaded guilty.

EPA Special Agent Paul Larkin Jr., said according to witnesses one man "looked like Casper the ghost," after working with the asbestos.

Witnesses also said Klein regularly visited the building during the removal, even assuring the workers the job was only dangerous if done for a long period of time.

Susan Helbert, an EPA special agent who worked the case from the agency's Washington D.C. office, said the use of transient or migrant workers to remove asbestos is a problem in several places in the country. It's bad enough, she said, that former Attorney General Janet Reno issued warning to many homeless shelters to warn workers about the danger.

Klein's lawyers pointed out that after the original cleanup was ordered in 1998, Klein spent \$300,000 and instructed removal well above what was required.

They also said Josef Weiss had planned to blackmail Klein.

Klein "stood up and took responsibility," attorney John Holloran said. But he added that the case "ran deeper" than what was talked about in court.

Co-counsel David G. Barger hinted that one company hired to remove the asbestos originally didn't to a proper job.

Sentencing

Klein, who appeared nervous in court, is set for sentencing on August 30 after a presentence report is issued. When asked by Judge James H. Michael Jr. how he felt, his reply was "a little nauseated, but otherwise fine."

The extensive plea agreement makes some suggestions as to Klein's responsibility to the exposed workers. It suggests that money should be placed in a trust to pay for the future testing and treatment of the men who cut the asbestos from the pipes and walls of the two commercial buildings.

"I think this shows that a professional is not above the law," said Healey, who worked on the case in conjunction with Department of Justice lawyer Avi Garbow.

"Especially a doctor."

"I wonder whatever happened to the Hippocratic Oath?" she mused.

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