

DISTRICT / COUNTY COURT
COUNTY OF BOULDER

STATE OF COLORADO

AFFIDAVIT OF PROBABLE CAUSE FOR ARREST WARRANT

1. The affiant, Gisonda, Criminal Investigator with the Special Prosecutions Unit of the Colorado Attorney General's Office, a peace officer, being duly sworn upon oath, says that the facts stated herein are true.

2. I am a criminal investigator and commissioned peace officer employed by the Colorado Attorney General, assigned to the Special Prosecutions Unit, Criminal Justice Section. I have been employed as a peace officer for over 15 years, most recently as an Attorney General Investigator, investigating complex crimes, and other violations of the Colorado Revised Statutes.

3. I have probable cause to believe that:

ROBERTS, ROCCO, BENJAMIN

DOB: 04/04/1979

SSN: [REDACTED]

described as a W, M, with brown hair and brown eyes

has committed the offenses outlined in the attached Felony Complaint and Information. These offenses are:

COUNT ONE: Causing and Contributing to a Hazardous Substance Incident § 29-22-108(1) C.R.S. (F4)

COUNT TWO: Forgery § 18-5-102 (1)(c) C.R.S. (F5)

COUNT THREE: Forgery § 18-5-102 (1)(d) C.R.S. (F5)

COUNT FOUR: Theft 18-4-401(1)(b),(2)(g), C.R.S. (F5)

REASONS FOR MY BELIEF

Asbestos Remediation and Abatement:

1. Asbestos is a naturally occurring mineral that has been mined for use as thermal insulation, chemical resistance, electrical insulation, and high tensile strength. It is a known

carcinogen and is on the Environmental Protection Agency's list of hazardous air pollutants. It causes three main diseases: asbestosis, lung cancer, and mesothelioma. Asbestos-related diseases often have long latency periods, and symptoms may not appear for 10-50 years. Historically, asbestos was frequently used in various building materials. Asbestos-containing materials (ACM) become hazardous when disturbed or damaged.

2. Because of the significant public health dangers associated with asbestos, the Colorado Department of Public Health and Environment (CDPHE) regulates the containment and abatement of asbestos. An asbestos inspection is required by a certified asbestos building inspector before any renovation or demolition work takes place. The certified Asbestos Building Inspector must work for a registered Asbestos Consulting firm. If the asbestos inspection identifies the presence of asbestos that would become disturbed by renovation or demolition activities above the regulatory level, abatement must be conducted by a Colorado-certified General Abatement Contractor (GAC). The GAC must submit an Asbestos Abatement Notification and Permit Application form to CDPHE along with payment of a permit fee. The GAC must follow all other regulations and hazardous waste disposal requirements. Under Colorado regulations, an independent, state-certified Air Monitoring Specialist (AMS) must conduct a final visual inspection followed by air sampling before the space is reoccupied or further construction can commence.

3. A "major asbestos spill" is an uncontrolled release of hazardous asbestos fibers caused by the disturbance of friable ACM beyond the regulatory thresholds. The site of a major asbestos spill must be reported to CDPHE, properly contained, workers must wear appropriate personal protective equipment, and asbestos-containing waste must be disposed of properly.

Narrative:

On October 10, 2023, your affiant received a referral from Trevor Strosnider, Environmental Protection Specialist in the Air Quality Control Division- Indoor Air Program at the Colorado Department of Public Health and Environment (CDPHE). Your affiant learned that on August 14, 2023, CDPHE became aware of a contractor who allegedly performed asbestos abatement without being certified to do so, and possibly also falsified CDPHE permits. The subsequent investigation uncovered the following facts:

Mrs. Megin Rux and her husband, Mr. Jason Lustbader undertook a basement renovation of their home located at [REDACTED] Boulder County, Colorado, in early 2023. Due to the age of the home, an asbestos inspection was required. The pre-renovation asbestos inspection was performed on February 3, 2023, by Chris Lehman, a certified asbestos building inspector who works for DS Environmental. Of the ten samples collected by Mr. Lehman in separate homogenous areas, nine samples came back as containing over 1% asbestos. Any homogeneous area containing over 1% asbestos is classified as asbestos containing material (ACM) and above the regulatory trigger level, requiring a permit from CDPHE for abatement and requiring a licensed general asbestos contractor (GAC) to remediate.

On the recommendation of her general contractor GJ Koeppen Construction, Mrs. Rux obtained a bid from Home Defense Solutions (HDS). HDS's owner, later identified as Rocco Roberts,

represented that he was a certified GAC and offered the lowest bid, which Mrs. Rux accepted. Mr. Roberts presented Mrs. Rux with documents stating that all the work would be performed in accordance with state and federal regulations, using trained and certified asbestos workers, that all required permits or notifications would be filed with CDPHE, all asbestos would be transported and disposed of properly, and a final air clearance would be performed by a third party. Mrs. Rux agreed to this proposal, and paid Mr. Roberts a deposit of \$4,200.00 via Venmo on July 12, 2023, for the work, which started on July 27, 2023.

Mrs. Rux is an architect and as such has some high-level understanding of asbestos abatement best practices. Mrs. Rux noticed red flags with Mr. Roberts's work while the work was ongoing, such as inadequate containment barriers and trails of debris leading from the basement to the outside.

On August 1, 2023, Mr. Roberts told Mrs. Rux over the phone that her home had passed the final air clearance test and it was safe to go downstairs, so she paid him the remaining \$4,200.00 for the work via Venmo. Mrs. Rux paid Mr. Roberts a total of \$8,400 for the project. When Mrs. Rux went down to the basement, she had immediate concerns about the dirtiness of the basement. Additionally, Mrs. Rux noted that part of the area Mr. Roberts was supposed to have abated in order to remove portions of the basement exterior walls for the installation of larger windows was not big enough.

Mrs. Rux confronted Mr. Roberts about these issues, and he told her that the work was complete, but he still needed to do a final cleaning even though her home had passed the air clearance. Mrs. Rux, who was 9 months pregnant at the time, was eager to use her washer and dryer to prepare her nursery. After Mr. Roberts told her he stopped by to do additional cleanup, Mrs. Rux returned to the basement on August 6, 2023, and observed that the vents to central air conditioning and heating were not properly covered and that there were still dust and debris everywhere, including inside her washing machine.

Mrs. Rux believed this to not sound right and contacted Chris Lehman, the certified asbestos inspector who had initially tested her basement for asbestos, to express her concerns. Mr. Lehman returned to Mrs. Rux's house on August 9, 2023, and immediately shared her concerns upon seeing the condition of the basement. Due to the known presence of ACM from his February inspection and his visual observation of the current state of the basement, Mr. Lehman declared the area a major asbestos spill and notified CDPHE. Mr. Lehman performed additional samplings to determine the extent of the spill. On August 10th, 2023, lab reports showed that the major spill was limited to the basement area to the house.

Mrs. Rux learned that CDPHE had no knowledge of her abatement project, despite the fact that Mr. Roberts had provided her with a signed CDPHE asbestos abatement permit. She also learned that neither Mr. Roberts nor Mr. Robert's company, HDS were currently certified with the State of Colorado to abate asbestos. Mrs. Rux also contacted Versatile Environmental, the company listed on the air clearance report that Mr. Roberts had provided to her as proof that abatement of the asbestos was complete and it was clear to move onto the remodeling of her basement. Mrs. Rux spoke to Versatile Environmental's owner Billy Huff and learned that his company had never performed any work at her residence.

Your affiant spoke to Mr. Strosnider and learned that he personally responded to Mrs. Rux's home on August 18th, 2023, and shared Mr. Lehman's concerns after seeing the basement. Mr. Strosnider advised that CDPHE records show that Mr. Roberts has not been certified to work in the asbestos industry since September of 2018, and HDS's certification expired in February of 2019. Mr. Strosnider also provided your affiant with the documents Mr. Roberts presented to Mrs. Rux.

Based on the information provided, Mr. Roberts was tentatively identified as Rocco Benjamin Roberts (DOB: 04/04/1979) with a last-known address of [REDACTED]

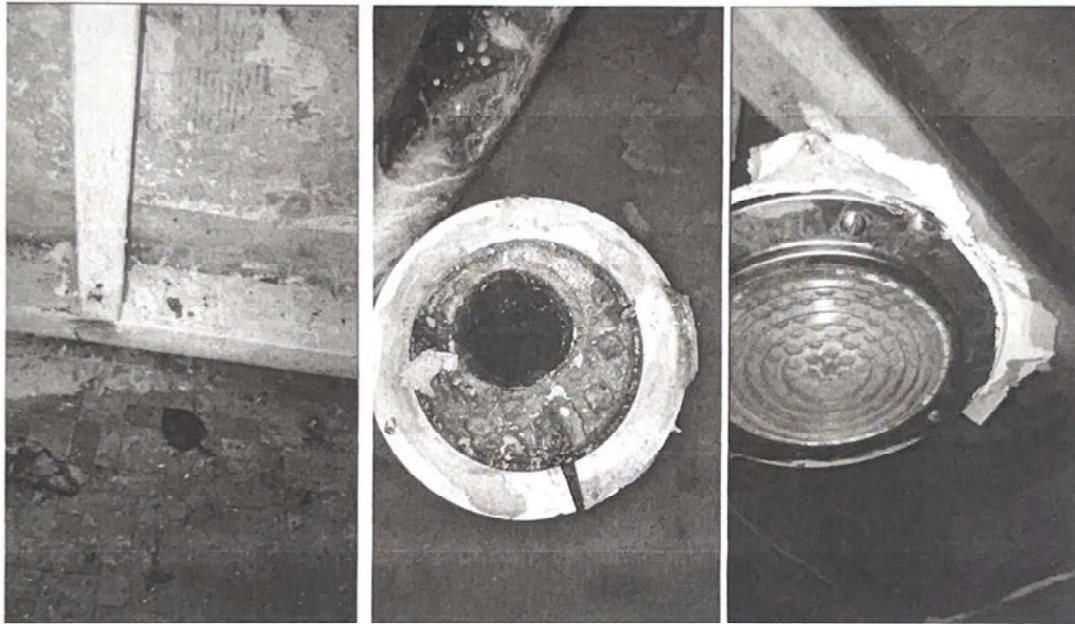
A search of Mr. Roberts' criminal history revealed a [REDACTED]

A search of the Secretary of State's (SOS) website shows that "Home Defense Solutions" is a Limited Liability Company formed on August 9, 2017, and is owned by Rocco Benjamin Roberts. Home Defense Solutions became delinquent with the Colorado SOS on February 1, 2022.

Mr. Strosnider recorded an interview with Mrs. Rux. Your affiant noted that in that interview, Mrs. Rux provides details of her interactions with Mr. Roberts that made her suspicious of his work. Mrs. Rux described how Mr. Roberts worked for about half day doing prep work, bringing in a HEPA filter and putting up half plastic barrier between the stairs leading to basement and the rest of the house. Mrs. Rux mentioned that when Mr. Roberts and his assistant named "Justin" started abatement and moving things out, she and her husband looked in the back hallway and noticed a lack of containment barriers from the basement. When they talked to Mr. Roberts about it, he told them that it was not a big issue because asbestos only hurts certain people and some people are not even affected but agreed to put a full barrier up. Once the work was in progress, Mrs. Rux observed an extensive amount of dust and debris that went from the back door to the trailer. Mrs. Rux noted that Mr. Roberts and his assistant would come and work for a few hours, then leave for various reasons. Mr. Rux said that one time, they left because Justin was "having a schizophrenic breakdown." Mr. Roberts came back alone for the next few days. He told Mrs. Rux that the air clearance guy came and that it only took 5 minutes, that they passed the test, but Mr. Roberts would need to come back and clean up a few things. Mrs. Rux explained that there is an old toilet and a shower in the basement that are not functional. Mr. Roberts turned the water back on and used the toilet unbeknownst to Mrs. Rux and then reported having problems with it. Mr. Roberts told Mrs. Rux he would finish the clean-up but never did. Instead, he sent Mrs. Rux a text saying he was done. Mrs. Rux came down and saw the debris, standing water in the shower, debris inside the washer and dryer that were supposed to be encapsulated with a containment barrier, and vents were not covered. This is when Mrs. Rux contacted D.S Environmental.

Mr. Strosnider's visit on August 18th occurred after the abatement was allegedly completed by Mr. Roberts. Below are pictures taken by Mr. Strosnider that illustrate the remaining conditions of the

basement on August 18th to include shower pan and drain and remaining known ACM drywall on the ceiling:



Your affiant reviewed the Final Air Clearance report Mr. Roberts provided Mrs. Rux and which was allegedly performed by Versatile Environmental, which is a legitimate Air Monitoring Company based in Lakewood, Colorado. Mrs. Rux stated to CDPHE that she had contacted Versatile Environmental and learned that the report she had received from Mr. Roberts was a fake.

Mr. Stronisher also provided your affiant with email communication between him, Mrs. Rux and Billy Huff, the owner of Versatile Environmental, where Mr. Huff points out the many discrepancies in the air clearance report Mrs. Rux had in her possession versus a real one from his company, which he provided for comparison. Mr. Huff stated in his email: "This is 100% a fraudulent report!!!".



Final Air Clearance
For the Subject Property



Boulder, Co 80305

Report Date: 08/02/23

Inspection Date and Testing Date:
08/02/23 Job File # 18-1116

Prepared by:
Stacy Young
Colorado Certified
Asbestos Building Inspector, 17831
Air Monitoring Special

Mold Inspector and Assessor

Versatile Environmental LLC
649 Independence St
Lafayette, CO 80023
726-919-4204
stacy@versam.com

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Final Air Clearance

For the Subject Property
3122 Allison Dr.
Loveland, CO 80538



Report Date: 11/20/18

Inspection Date and Testing Date: 11/14/18
Job File # 18-1116

Prepared by:
Billy Huff
Colorado Certified
Asbestos Building Inspector, 17831
Air Monitoring Special
Mold Inspector and Assessor

Versatile Environmental LLC
649 Independence St
Lafayette, CO 80023
726-214-3010
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On the left is the front page of the air clearance report Mr. Roberts provided to Mrs. Rux. On the right is a legitimate one provided by Mr. Huff. Mr. Huff pointed out that all of his reports have a picture of the property on the first page, and that all of his job numbers start with the year, month, and are then sequential. If his company had performed an air monitoring inspection at the Rux's home in August of 2023, the job number would have been "23-08xx". Mr. Huff commented that the job number "18-1116" was the last legitimate job he had performed for Home Defense Solutions in November of 2018.

Mr. Huff noted other discrepancies, such as the fact that he updates the information at the bottom of the page every year and this report still showed "2018", and the fact that he had no idea who "Stacy Young" was. Mr. Huff remarked that he had received several phone calls over the years asking for "Stacy", making him suspect that this had been going on for years.

Under Colorado regulations, air monitoring by a certified air monitoring specialist and passing a final air clearance is a required step of asbestos abatement before the space can be reoccupied or further construction can commence. The final air clearance report, which is provided to the customer, is not required to be filed with the State, however it must be made available and fillable to CDPHE if state inspectors were to request it.

Your affiant also reviewed the Asbestos Abatement Notification and Permit Application Form that Mr. Roberts provided to Mrs. Rux as shown below. This is the document that GACs are required to file with CDPHE before any abatement work can start.

ASBESTOS ABATEMENT NOTIFICATION and PERMIT APPLICATION FORM
FEE MUST ACCOMPANY THIS FORM. INCOMPLETE APPLICATIONS WILL BE RETURNED.



Single Family Residential Dwelling (SFRD) > 50 LF or 32 SF or a 55-gal. drum, but ≤ 260 LF or 160 SF or a 55-gallon drum		Public and Commercial Building, School, and Single-Family Residential Dwelling > 260 LF or 160 SF or a 55-gallon drum		Submit form to: Permit Coordinator Colorado Dept. of Public Health and Environment APD-E-B1 4300 Cherry Creek Drive South Denver, CO 80249-1530 Phone: 303.692.3100 Fax: 303.752-0271 astrosnider@state.co.us		
code 200	\$0	Courtesy Notice	code 100		\$0	Courtesy Notice
code 205	\$60	Non-Public Access Notice (Opt Out)	code 105		\$80	Non-Public Access Notice
code 210	\$60		code 110		\$80	Notice
code 230	\$180	30-Day Permit	code 130/232		\$400	30-Day P&C/SFRD Permit
code 240	\$300	90-Day Permit	code 150/232		\$800	90-Day P&C/SFRD Permit
code 265	\$420	365-Day Permit	code 165/267	\$1200	365-Day P&C/SFRD Permit	
code 180/280	\$50	Notice or Permit Transfer	code 177	\$90	Phase of Multiple Phase Permit #	

Abatement Contractor		Abatement Site		Building Owner	
Company Name: Home Defense Solutions		Building Name: [REDACTED]		Owner Name: Megan Rux	
Street Address: [REDACTED]		Specify location in the building and on the site (e.g., location, wing, etc.): Basement		Contact: Megan Rux	
City: Fort Collins State: CO Zip code: [REDACTED]		Street Address: [REDACTED]		Street Address: [REDACTED]	
Telephone #: (970) 689-8307 Fax #: N/A		City: Boulder County: Boulder Zip code: [REDACTED]		City: Boulder State: CO Zip code: [REDACTED]	
Project Supervisor: Rocco Roberts CO Cert #: 128195		Building Contact: Mirah Eckhardt Cell Phone #: (617) 858-6932		Telephone #: (303) 369-7502 Fax #: (N/A)	
Project Personnel		Project Information		Disposal Site	
CO Project Mgr. Name: NA		Start Date: 7/27/23 End Date: 8/16/23		Landfill Name: DADS	
Cell Phone #: (N/A) CO Project Designer #: NA		Start Time: 8:00 AM PM End Time: AM 5:00 PM		Street Address: 3500 S. Oak Club Rd.	
CO Project Designer Name: NA		Check the day(s) of operation: Su M Tu W Th F Sa		City: Aurora State: CO Zip code: 80018	
Cell Phone #: (N/A) CO Project Designer #: NA		Emergency? Y ☐ N ☐		CDPHE Use Only	
Consulting Firm Name: NA Registration #: NA		Type of ACM: TSI, Texture, VAT, etc. drywall and surface texture		Postmark or Delivery date: 7/20/23 Approved by: [Signature]	
A.M.S. Name: Versatile environmental		Linear Feet / Type: 1000sf of drywall and surface texture		Form of Payment & Order ID #: 182156312 PM req'd: Y ☐ N ☐ W ☐	
Cell Phone #: (720) 339-4204 CO A.M.S. Cert #: 17851		Square Feet / Type: 55 gal. Drums		Permit #: [REDACTED] Record #: [REDACTED] Date Issued: [REDACTED]	

Please describe below the work practices and procedures to be employed in conducting the abatement of asbestos. **BE SPECIFIC**. Indicate type(s) of ACM to be abated (e.g., VAT, ceiling tile, TSI, etc.). Use another page if necessary.
 1000sf of drywall and surface texture using wet hand methods, such as pry bars and hammers with an airless sprayer with amended water, under secondary containment with waste load out, negative air and 6 mil bagged. Using trained and certified workers and supervisors. All waste will be disposed of at DADS. Final air clearance to be provided by Versatile Environmental.

CDPHE confirmed that they had no records of this document or of any abatement projects scheduled to take place at [REDACTED]. Your affiant noted that most fields on the document were filled out and there appeared to be a signature in blue ink under the "approved by" field. The document was also accompanied by a receipt showing that Mr. Roberts had made a payment of \$61.00 on the CDPHE payment portal.

Under the work practices and procedures field, which requires a specific description, the notes indicate:

"1000sf of drywall and surface texture using wet hand methods, such as pry bars and hammers with an airless sprayer with amended water, under secondary containment with waste load out, negative air and 6 mil bagged. Using trained and certified workers and supervisors. All waste will be disposed of at DADS. Final air clearance to be provided by Versatile Environmental."

Your affiant noted that "DADS" is an acronym for Denver-Arapahoe Disposal Site, one of the few metro area landfills authorized to accept hazardous waste such as friable asbestos. Your affiant contacted DADS and after speaking with them and obtaining their records, confirmed that they never received any hazardous waste from Mrs. Rux's home or from Rocco Roberts/HDS.

Mr. Strosnider emphasized in an email to your affiant that the approved asbestos permit applications are never hand signed, "under any circumstances". He advised that CDPHE uses a standardized signature stamp process through Adobe on their forms. Mr. Strosnider included a legitimate permit as an example shown below.

APPROVED

By Jeffrey Wolfe at 11:51 am, Oct 22, 2025

ASBESTOS ABATEMENT NOTIFICATION and PERMIT

FEE MUST ACCOMPANY THIS FORM. INCOMPLETE APPLICATION



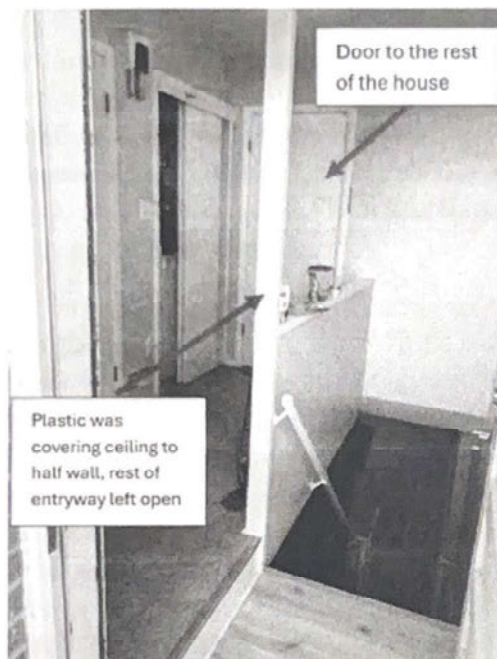
Colorado Department
of Public Health
and Environment

Single Family Residential Dwelling (SFRD)		Public and Commercial Building, School, and Single Family Residential Dwelling > 200 SF or 100 sq ft or a 10-gallon drum	
code 200	100	code 100	100
code 201	100	code 101	100
code 202	100	code 102	100
code 203	100	code 103	100
code 204	100	code 104	100
code 205	100	code 105	100
code 206	100	code 106	100
code 207	100	code 107	100
code 208	100	code 108	100
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code 294	100	code 194	100
code 295	100	code 195	100
code 296	100	code 196	100
code 297	100	code 197	100
code 298	100	code 198	100
code 299	100	code 199	100
code 300	100	code 200	100

Your affiant met Mrs. Rux and her husband, Jason Lustbader, at their home at [REDACTED] Boulder County, on January 27, 2025. Your affiant showed a DMV picture of Mr. Roberts without any identifying information to Mrs. Rux, then to her husband. Both positively identified the person in the picture as Rocco Roberts.

Mrs. Rux showed your affiant around the house and spoke about her experience working with Mr. Roberts, which was similar information she had already shared with Mr. Strosnider. Mrs. Rux explained that Mr. Roberts had parked his trailer in their driveway and walked around the side of the house to the back door to access the basement. Mrs. Rux described the trailer as "decrepit", it did have four sides and a top but there was a hole in one of the corners and it was falling apart. She did not see any company names on the trailer. Mrs. Rux confirmed there was no containment between the back door and the trailer, and saw a trail of debris going from the back door to the trailer while the work was ongoing. Mrs. Rux and her husband never saw the actual debris being moved, do not know how it was transported from basement to the trailer, whether it was bagged or not, or where it was taken to be disposed of.

Mrs. Rux then showed your affiant the entryway that was only half covered at first while the rest of the landing was left totally open. When she confronted Mr. Roberts about it, he told her asbestos doesn't really affect people that much and it would be fine, but did put up better containment at her request.



Mrs. Rux went into greater detail about the mess she found in her basement after Mr. Roberts told her the work was completed and her home had passed the final air clearance, and it was safe for her to return to the basement. When Mrs. Rux confronted Mr. Roberts about the mess left behind, he told her the home had passed final inspection but "they" told him there were still a few things that he would need to clean up.

Mrs. Rux also described what she observed after Mr. Roberts represented he had finished the clean up. Mrs. Rux described how she found debris inside her washer and dryer, standing water filled with debris in the non-functioning shower pan, and even a very dirty air filter Mr. Roberts had left behind.



Mrs. Rux provided your affiant with text messages where she confronted Mr. Roberts about the outstanding issues and requested her money back multiple times. Mr. Roberts initially agreed but eventually ceased communication with Mrs. Rux and never repaid her.

On October 16, 2025, your affiant met with Chris Lehman of DS Environmental. Mr. Lehman confirmed that the amount of ACM found from his initial pre-renovation asbestos inspection performed on February 3, 2023, was above the regulatory threshold and required proper notification to the State and abatement by a certified GAC. From the sampling, the areas of the basement that were determined to contain ACM were the drywall ceiling and the concrete coating layer, which is a compound layer that is spread uniformly directly on the walls to help materials adhere better to the concrete.

When he returned to Mrs. Rux's home on August 9, 2023, Mr. Lehman stated what he saw made him "angry". Mr. Lehman observed the plastic barrier between the basement and the upper level of the house appearing to be falling down, and it did not look to him like there was any negative air pressure utilized in the project. Mrs. Rux told him that the abatement was supposedly almost done but the contractor was supposed to come back to finish cleaning up and pick up some equipment. Because he observed dust and debris in the area that was previously found to contain ACM, Mr. Lehman proceeded with a delineation inspection, which is used to determine which areas might be contaminated in case of a suspected asbestos spill. Mr. Lehman documented that he observed "significantly damaged ACM and debris present" and took photographs, before contacting the State to report the major spill.

On November 14, 2025, your affiant met virtually with Chris Guenther of SCS, the GAC who properly remediated Megin Rux's home after the major spill was declared in August of 2023. Mr. Guenther also provided an initial abatement bid in February of 2023, but Mrs. Rux ended up hiring a different GAC which is not unusual in this industry.

Mr. Guenther told your affiant that when he returned to Mrs. Rux's home on August 11, 2023, he could tell something was not right before he even went down to the basement. Mr. Guenther saw plastic sheeting taped to the ceiling that was halfway falling down, which is in no way proper. When he saw the supposed State permit, and he could tell that was not correct because CDPHE changed their policies a few years ago and now use a colored stamp on their permits. As soon as he walked in the basement, Mr. Guenther knew it would have failed a visual inspection immediately and would never have passed a final air clearance.

Mr. Guenther noticed bits and pieces of drywall still present, debris swept in a pile, a dirty negative air pressure machine still on site, standing water in a shower pan, dust around the water heater, furnace, heater and other areas of the basement, all of which are big "no-no" and indicators that the job was not properly done. Mr. Guenther explained that a final air clearance includes a visual inspection that is like a "white glove inspection" and that visually, this project would have immediately failed. The proper procedure requires the negative air pressure machine to be kept running until the cleaning is done, then the machine itself needs to be cleaned before an air clearance can be performed. The one left in the basement was off, dirty, and never cleaned.

Mr. Guenther explained that even though some of the ACM had been removed, there was a significant amount of work and clean up that needed to be done to fix the mess and remediate the basement properly. Mr. Guenther wrote a new estimate to do the final abatement and cleaning of Mrs. Rux's basement, which came out to \$17,736.52.

On June 9th and 12th 2026, your affiant met with Curtis Burns, Field Operations Supervisor of the Air Pollution Control Division- Indoor Environment Program at CDPHE. Mr. Burns, who has over 35 years of experience in the asbestos industry, was provided with materials to review prior to the meeting, including witness statements from Megin Rux, findings from Trevor Strosnider, Chris Lehman and Chris Guenther, as well as pictures from the site and other known facts about this case. Mr. Burns is also Trevor Strosnider's direct supervisor, and as such already had some superficial knowledge about this case from a regulatory perspective but did not know many details.

Mr. Burns concurred that in his opinion, the condition of the basement was left in by Mr. Roberts constituted a major asbestos spill. Mr. Burns explained that while a major spill is defined by an uncontrolled release of ACM greater than the trigger level, a hazardous substance incident can occur when the release poses a threat to human health and the environment. A major spill will not always result in a hazardous substance incident, unless intentional or negligent actions are taken to spread the asbestos beyond the delineated zone.

Using Mr. Lehman's report from February of 2023 and the photographs of the basement post-work, your affiant and Mr. Burns determined that the amount of impacted ACM was approximately 714 Square Feet for the whole basement, which according to Mr. Burns is a "significant issue" for a single family residence and could threaten immediate irreparable harm to the health and safety of individuals in the residence.

The nature of the building material dictates the removal method, and the care taken during the work can make the impact more or less significant. Using tools such as hammers or crowbars as referenced in the permit application to remove the drywall ceiling could cause significant impact and disturbance of ACM. Mr. Burns noted that most professionals usually attempt to remove larger chunks at the time to generate less debris. By looking at the pictures, Mr. Burns can see marks around the windows that are indicative that some sort of a blade or scraping tool was used, which would be a very impactful removal method. Mr. Burns explained that everyone can live safely around asbestos as long as it remains undisturbed but by scraping around the windows, Mr. Roberts impacted every square inch of the building matrix with his removal activities.



Mr. Burns reviewed the delineation report from August 2023 and noted that he could see incomplete removal of ACM, sweep marks, debris, and again remarked about the scrape marks around the windows. Mr. Burns explained that according to asbestos inspection report, the ACM

that needed to be abated around the windows was located in a compound layer that is used to help the paint adhere better to the concrete. This compound is applied directly to the concrete and imbedded deep into the pores. From Mr. Burns' experience, abating this compound requires extensive work using aggressive methods to get it out of the concrete pores, such as sandblasting. Scraping the compound would not be an adequate removal method at all as it would be completely ineffective but would also release asbestos.

Mr. Burns explained that when the basement was left in this condition, in addition to Mrs. Rux and her family, any other trade professionals that entered the basement to continue construction would have unknowingly been exposed to asbestos, threatening immediate irreparable harm to their health.

While there is an increased risk of developing asbestos related diseases such as Asbestosis or Mesothelioma from repeated or prolonged exposure, there is no known "safe" level of exposure to asbestos. According to Mr. Burns, Asbestosis is arguably more commonly linked to long-term asbestos exposure. Mr. Burns explained that Asbestosis occurs when inhaled asbestos fibers that have imbedded themselves in the lungs over time, will create so much scar tissue that will cause a person to slowly suffocate. Because of the mechanics of how Asbestosis works, repeated exposure inherently creates a higher risk of developing the disease. Mesothelioma is cancer of the plural lining of the lungs. Mr. Burns explained that when the body detects a foreign substance inside the body (the asbestos fibers in the lungs) its white cells response can sometimes turn into cancer. This only takes one exposure. While there is a latency period for developing these diseases, the harm occurs immediately upon exposure as soon as the fiber is inhaled and is irreversible.

Mr. Burns noted the fact that the space was presumed to have been cleaned up and the work was represented as having been completed, not only exposed the homeowner and her family but also threatened exposure to every trade professional who will be entering the basement from that point forward, threatening irreparable harm to their health. As a former certified asbestos professional, Mr. Roberts was trained on what he must do to protect the individuals and the environment. Mr. Roberts went through the initial 5-day asbestos supervisor training course to get his certification, plus a yearly refresher training course after that for every year he was certified. Mr. Burns remarked that while the spill remained confined to the basement at the time, the asbestos could have rapidly spread to the rest of the house once the HVAC system was turned back on and the air started to circulate.

In Mr. Burns' opinion, the quantity of ACM being disturbed, the type of material being impacted that contained ACM, the removal method, and any debris left behind along with the general condition of the space, and the threat of immediate irreparable harm to the health of individuals are all factors that contributed to this being a hazardous substance incident.

Based upon the above information, the affiant requests the court issue an arrest warrant for **Roberts, Rocco, Benjamin**

N. Girona 22.3
Affiant

Subscribed and sworn before me this 17th day of July, 2026

Judge

Erica Mancha
ERICA MANCHA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20144035639
MY COMMISSION EXPIRES SEPTEMBER 25, 2026

exp. 9/25/2026