

****NEWS RELEASE****

SETTLEMENT REACHED IN ENVIRONMENTAL PROTECTION CASE INVOLVING FORMER DICK BRUHN BUILDING

FOR IMMEDIATE RELEASE
August 11, 2017

CONTACT: Annie Michaels, Assistant District Attorney (831) 647-7736
James Burlison, Deputy District Attorney (831) 647-7713

Monterey County District Attorney Dean D. Flippo announced today that his office has settled an environmental protection case against Berkley, Inc. of Salinas and its president and CEO Gerard F. Kehoe. The case concerns demolition and renovation work performed at various times in the two-year period prior to February of 2015 at the former Dick Bruhn Building, located at 300 Main Street in Salinas.

This matter was referred to the District Attorney's Office in late January of 2016 by the Monterey Bay Air Resources District. It is required under local, state and federal law that the owner or operator of a demolition or renovation activity thoroughly inspect for the presence of asbestos prior to conducting a demolition or renovation of a regulated property. It is alleged in the Complaint that Berkley, Inc. and Kehoe failed to have any asbestos survey conducted prior to the demolition and renovation of the top floor of the building.

The law requires an owner or operator to thoroughly test for asbestos regardless of when a building is constructed, even if no asbestos is ultimately found. In this instance, it is alleged that regulated asbestos containing material was present in a section of wallboard and that the Defendants did not comply with the rules regarding the removal, handling and disposal of this regulated material. It is also alleged that some asbestos containing floor tiles were removed without following the work procedures required under California law.

Berkley, Inc. and Kehoe cooperated with the investigation. Berkley, Inc. and Kehoe denied liability, and a compromise of this dispute was reached to avoid further litigation expense. Berkley Inc. and Kehoe agreed to pay \$75,000 in civil penalties and costs. The terms of the settlement also provide for an extensive permanent injunction which has been ordered by the Monterey County Superior Court to take effect immediately. The terms of the injunction will serve as a deterrent to help prevent future violations at any property which is owned or operated by the Defendants.

In assessing the appropriate amount of civil penalties, the District Attorney's Office took into consideration the financial hardship and loss that the Defendants incurred as a result of the major fire at the long-vacant building for which Berkeley and Kehoe were apparently uninsured. This investigation did not concern any aspect of the fire itself. The Salinas Fire Department determined that arson was not a cause of the fire.

The case was investigated by Mike Sheehan and Shawn Boyle of the Monterey Bay Air Resources District, and District Attorney Investigator John Ferreria. The District Attorney's Office brings actions such as these to ensure that businesses comply with their legal responsibilities to safeguard workers and the environment.