



STATE OF CONNECTICUT  
BEFORE THE  
ATTORNEY GENERAL  
AND THE  
COMMISSIONER OF CONSUMER PROTECTION

In the Matter of

The Joseph J. Mottes Company and Becker Construction Company

**ASSURANCE OF VOLUNTARY COMPLIANCE**

This Assurance of Voluntary Compliance is provided to George Jepsen, Attorney General, and Jonathan A. Harris, Commissioner of the Department of Consumer Protection of the State of Connecticut (together, the "State"), by the Respondents The Joseph J. Mottes Company, 10 Meadow Lane, Stafford Springs, CT 06076 ("Mottes") and Becker Construction Company, P.O. Box 535, Willington, CT, 06279 ("Becker") (together, "Respondents"), pursuant to the provisions of Connecticut General Statutes § 42-110j.

Whereas, the State has an ongoing investigation into the cause of residential foundation deterioration within the State of Connecticut;

Whereas, the State has not yet reached a conclusion as to the cause of residential foundation deterioration within the State of Connecticut;

Whereas, Mottes disputes that the ready mix concrete that it manufactured and sold was defective or otherwise a cause of deteriorating residential foundations within the State of Connecticut;

Whereas, Mottes represents that it has not and does not install residential foundations;

Whereas, Mottes has expressed an intention to cease operations and sell or lease its real estate and batch plants to third parties;

Whereas, Becker and Mottes have cooperated with the State's investigation and wish to provide assurances to the State that, for a certain period of time as set forth herein, they will not sell stone aggregate for use in residential foundations, or concrete made with aggregate containing pyrrhotite to be used in residential foundations;

Now, therefore:

1.) Mottes represents itself as a company incorporated in Connecticut. Mottes is in the business of manufacturing and selling ready mix concrete, septic products and masonry supplies to customers, including customers in Connecticut.

2.) Becker represents itself as a business in Connecticut. Becker is in the business of providing crushed stone, stone aggregate, and other earth products to Connecticut customers, which crushed stone and stone aggregate Becker excavates from quarry sites in Willington, Connecticut ("Becker's Quarry"). Becker owns and operates Becker's Quarry. Stone aggregate excavated by Becker from Becker's Quarry has been used in Mottes concrete sold within the State of Connecticut.

3.) As of the date of the signing of this Assurance of Voluntary Compliance, and continuing until its expiration: (a) Mottes agrees to forbear from selling any material or product containing aggregate from Becker's Quarry for use in residential concrete foundations within the State of Connecticut; and (b) Becker agrees to forbear from selling

any material or product containing aggregate from Becker's Quarry for use in residential concrete foundations within the State of Connecticut.

4.) Becker will provide to its customers a notice, identical to the form attached hereto. Such notice shall be posted in all prominent places at Becker's business locations where it can be viewed by all customers. Becker shall also provide such notice to all customers that purchase stone aggregate.

5.) Mottes will provide a copy of this Assurance of Voluntary Compliance to any third party that leases or purchases its real estate and batch plants for the purpose of manufacturing and selling concrete.

6.) Becker shall provide notice to the Attorney General and the Commissioner, through their designees, in the event that it sells Becker's Quarry at any time during the term of this Assurance of Voluntary Compliance, within three (3) days of the date of the sale, at the following addresses:

Office of the Attorney General  
Jeremy Pearlman, Assistant Attorney General  
110 Sherman St.  
Hartford, CT 06105  
[Jeremy.pearlman@ct.gov](mailto:Jeremy.pearlman@ct.gov)

Department of Consumer Protection  
Julianne Avallone, Legal Director  
165 Capitol Avenue  
Hartford, CT 06106-1630  
[Julianne.avallone@ct.gov](mailto:Julianne.avallone@ct.gov)

7.) Respondents are entering into this Assurance of Voluntary Compliance solely for purposes of settlement. This Assurance of Voluntary Compliance shall not be

considered an admission of liability or a violation of law or as evidence supporting any allegations raised by the State.

8.) Respondents agree that notwithstanding the foregoing, if either Respondent violates the terms of this Assurance of Voluntary Compliance, this matter may be reopened for further proceedings in the public interest, including, but not limited to, an action seeking appropriate relief as provided by law.

9.) This Assurance of Voluntary Compliance shall not become part of the official record unless and until it is accepted by the Attorney General and the Commissioner.

10.) This Assurance of Voluntary Compliance shall be binding on the Respondents, their successors and assigns.

11.) This Assurance of Voluntary Compliance shall become effective upon acceptance and approval by the Attorney General and the Commissioner without further notice to the Respondents.

12.) The acceptance of this Assurance of Voluntary Compliance shall not be deemed in any way to waive the right of the Attorney General and the Commissioner of Consumer Protection to take any and all appropriate action pursuant to their powers under the Connecticut Unfair Trade Practices Act, Chapter 735a of the Connecticut General Statutes.

13.) This Assurance of Voluntary Compliance shall expire on June 30, 2017.

**For the Respondent**

The Joseph J. Mottes Company

Dated: 5/5/16

By: Diane L Becker

Name: Diane L Becker

Title: President

**For the Respondent**

Becker Construction Company

Dated: 5/5/16

By: Diane L Becker


Name: Diane L Becker

Title: General Manager

Duly Authorized

Accepted and approved this 9th day of May, 2016

  
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**Jonathan A. Harris**  
Commissioner

  
\_\_\_\_\_  
**George Jepsen**  
Attorney General

## **WARNING**

**The State of Connecticut advises that until at least June 30, 2017, aggregate from Becker's Quarry should not be used in concrete for residential foundations.**

**Becker Construction Company has agreed to forbear from selling any material or product containing aggregate from Becker's Quarry for use in residential concrete foundations within the State of Connecticut.**

WIGGIN AND DANA

*Counsellors at Law*

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VIA HAND DELIVERY

May 6, 2016

Hon. George Jepsen  
Attorney General  
Office of the Connecticut Attorney General  
55 Elm Street  
Hartford, CT 06106

Hon. Jonathan A. Harris  
Commissioner of Consumer Protection  
Connecticut Department of Consumer Protection  
State Office Building  
165 Capitol Avenue  
Hartford, CT 06106

Re: **In the Matter of The Joseph J. Mottes Company ("Mottes") and Becker Construction Company ("Becker")**

Dear Attorney General Jepsen and Commissioner Harris:

I am enclosing with this letter five originals of the Assurance of Voluntary Compliance ("AVC") executed by Mottes and Becker. Please return three fully-executed originals to me.

Mottes and Becker wish to reiterate and make clear to each of your agencies and to the public at large several important facts that bear upon their willingness to enter into this AVC at this time.

- A. Mottes has not made or installed and does not make or install, residential foundations;
- B. Mottes's materials and processes are subject to continual inspection and testing, and the concrete it has manufactured is mixed to precise standards. Aggregate from the Becker Quarry, during all relevant times, had been routinely tested by the State of Connecticut Department of Transportation Laboratories and other private material testing Laboratories and has consistently met all regulations and standards for use in ready mix concrete. The forming of foundations by installers and builders, on the other hand, is unregulated, unlicensed, unsupervised and uninspected – but needs to be, as these installation practices have the most significant effect on a foundation's strength and durability.
- C. Mottes and Becker continue to strongly believe that the current situation involving residential foundations in Eastern Connecticut is an installation issue. Mottes and Becker support an unbiased, comprehensive investigation of the foundation issues – including

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how the materials were placed and installed, in addition to remedial actions – so that homeowners can get the answers they deserve and meaningful help with solutions.

- D. Mottes ready mix concrete containing aggregate from the Becker quarry in Willington, CT, and from other aggregate sellers, has been used in state, municipal and commercial foundations, walls, sidewalks and other structures without deterioration, and the same ready mix concrete has been used in residential concrete foundations, walls, sidewalks and other structures within the State of Connecticut without deterioration;
- E. Mottes ready mix concrete containing aggregate from the Becker quarry in Willington, CT, and other aggregate sellers, has been purchased and used by various residential concrete foundation installers within the State of Connecticut without deterioration;
- F. Some ready mix concrete containing aggregate from the Becker quarry in Willington, CT, and from other aggregate sellers, was purchased and used by some residential concrete foundation installers in the 1980s, who are no longer in business within the State of Connecticut, and who did not comply with American Concrete Institute and Connecticut standards, which practice is known to diminish concrete durability;
- G. Mottes and Becker have independently conducted their own investigation as to the claims of concrete foundation deterioration and have reason to believe that numerous installation and environmental factors caused or otherwise contributed to residential concrete foundation deterioration;
- H. Mottes and Becker have not seen any evidence that any residential concrete foundation deterioration was caused by their products;
- I. Pyrrhotite is a common mineral in Connecticut and my clients have concluded that the mere presence of pyrrhotite in concrete is not the cause of residential concrete foundation deterioration, as pyrrhotite will remain inert and will not become reactive within properly installed residential concrete foundations;
- J. Mottes and Becker have recently come to believe that under certain installations and environmental conditions, pyrrhotite may become reactive with other elements, principally water, which contributes to residential concrete foundation deterioration;



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*Counsellors at Law*

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- K. Mottes and Becker have come to believe that exterior waterproofing of foundations will protect residential concrete foundations from deterioration, even those containing pyrrhotite;
- L. Mottes and Becker have come to believe that exterior waterproofing of foundations will protect residential concrete foundations from deterioration, even those which have commenced deterioration;
- M. Mottes and Becker also have familiarity with a commercially available product which can be applied on either side of a basement wall and will continue to react through the wall to prevent water infiltration which is a necessary component of any reaction.

I would be most grateful if your agencies, when distributing the AVC to the public, append this cover letter to the AVC.

Additionally, Mottes and Becker, as well as my co-counsel, Glenn Duhl, and I, look forward to the opportunity to review and analyze for ourselves, the complaints that your agencies have received regarding deteriorating residential foundations. In this regard, there are many deteriorating concrete structures in Eastern Connecticut as well as in other parts of the state that have nothing to do with either Mottes or Becker.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. M. Langer', with a stylized, cursive flourish extending to the right.

Robert M. Langer

Enclosures

cc: Glenn A. Duhl, Esq.

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