§ 909. Civil penalties and revocation. 1. a. The commissioner may impose a civil penalty upon an asbestos contractor of up to two thousand five hundred dollars for the initial violation of section nine hundred two of this article and up to four thousand dollars for the second or subsequent violation of such section. Any substantially owned-affiliated entity of such asbestos contractor shall be held jointly and severally liable for the payment of such civil penalty. The commissioner may issue an order directing payment of such civil penalty by the asbestos contractor and substantially owned-affiliated entity.

b. If, after an investigation and a formal hearing, the commissioner finds that an asbestos contractor has violated any provision of this article, other than section nine hundred two or any rule or regulation promulgated hereunder, the commissioner shall, by an order which shall describe in detail the nature of the violation or violations, assess the asbestos contractor a civil penalty of not more than the greater of twenty-five percent of the monetary value of the contract upon which the violation was found to have occurred or five thousand dollars per violation. Any asbestos contractor who, having previously been assessed a civil penalty under this section, or whose substantially owned-affiliated entity having previously been assessed a civil penalty under this section, violates any provision of this article or any rule or regulation promulgated hereunder, shall be subject to a civil penalty of not more than the greater of fifty percent of the monetary value of the contract upon which the violation was found to have occurred or twenty-five thousand dollars per violation. Each day a violation continues may be considered a separate violation under this section. In assessing the amount of penalty, the commissioner shall give due consideration to the size of the asbestos contractor's business, the good faith of the contractor, the gravity of the violation and the history of previous violations by the asbestos contractor and/or any substantially owned-affiliated entity of such asbestos contractor. Any substantially owned-affiliated entity of such asbestos contractor shall be held jointly and severally liable for the payment of such civil penalty. The commissioner may issue an order directing payment of such civil penalty by the asbestos contractor and any substantially owned-affiliated entity.

2. If, after an investigation and a formal hearing, the commissioner finds that an asbestos contractor has violated any provision of this article or any rule or regulation promulgated hereunder within three years of the last assessment of a civil penalty against the asbestos contractor or any substantially owned-affiliated entity of the asbestos contractor under this article, or has been found to have committed serious violations of other state, federal or local laws with regard to the conduct of the asbestos contractor or any substantially owned-affiliated entity of such asbestos contractor at or on any asbestos project or that such asbestos contractor or any substantially owned-affiliated entity of such asbestos contractor has otherwise demonstrated a lack of responsibility in the conduct of any job involving asbestos or asbestos material of such seriousness as to warrant the revocation of the asbestos contractor's license, or the license of any substantially owned-affiliated entity of such asbestos contractor, the commissioner may, by an order which describes in detail the nature of the violation or violations, revoke the asbestos contractor's asbestos handling license or the asbestos handling license of any substantially owned-affiliated entity of such asbestos contractor and neither such asbestos contractor nor any substantially owned-affiliated entity of such asbestos contractor shall be eligible to apply for a new asbestos handling license for a period of up to two years.

3. If, after an investigation and a formal hearing, the commissioner finds that a person who has been issued an asbestos handling certificate has willfully violated any provision of this article, or any rule or regulation promulgated hereunder, the commissioner may, by order which describes in detail the nature of the violation or violations, suspend or revoke the asbestos handling certificate of such person.

4. Any person or asbestos contractor who may be adversely affected by an order issued under this section may challenge the validity or applicability of such order by commencing a proceeding pursuant to article seventy-eight of the civil practice law and rules. The commissioner may file with the county clerk of the county where the

person, asbestos contractor, or substantially owned-affiliated entity of such person or contractor resides or has a place of business, the order containing the amount of civil penalty, unless a proceeding for judicial review as provided in this article shall then be pending or the time for initiation of such proceeding has not expired. The filing of such order or decision shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order or decision may be enforced by and in the name of the commissioner in the same manner, and with like effect, as that prescribed by the civil practice law and rules for the enforcement of a money judgment.

5. When any person or corporation, or any officer or shareholder who owns or controls at least ten per centum of the outstanding stock of such corporation, has been convicted of a felony offense for conduct directly relating to obtaining or attempting to obtain, an asbestos handling certificate or asbestos handling license or performing or attempting to perform an asbestos contract such person or corporation shall be ineligible to be issued an asbestos handling certificate or asbestos handling license for a period of five years from the date of conviction.

6. Nothing in this section shall be construed as affecting any provision of any other law or regulation relating to the issuance of asbestos handling certificates or asbestos handling licenses.