

**IN THE COURT OF COMMON PLEAS
MAHONING COUNTY, OHIO**

STATE OF OHIO

Plaintiff,

-vs-

ANTHONY P. VIGORITO

Defendant.

* **Case No. 2017 CR 00317**

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* **Judge Thomas J. Pokorny**

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* **BILL OF PARTICULARS**

Now comes the State of Ohio, by and through the Ohio Attorney General and the undersigned Assistant Attorney General, and pursuant to Crim. R. 7(E), having received a written request defense counsel certified as sent by regular U.S. mail on April 10, 2017, furnishes this bill of particulars, setting up specifically as requested: 1. The specific conduct alleged which constitutes the offenses as charged in the indictment; and 2. The location for each of the offenses or any element thereof pursuant to R.C. Section 2901.12. This bill of particulars may be amended at any time subject to such conditions as justice requires.

The Defendant, plant operations manager at the Mahoning Valley Sanitary District ("MVSD"), provided training classes to drinking water and wastewater operators who needed to earn contact hours to maintain their operator's licenses. Drinking water operators are required every two years to renew their licenses with Ohio EPA's Operations Resiliency and Certification Section. Prior to renewing licenses, operators are

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required to obtain a certain number of contact hours depending on the level of their certification. On a periodic basis, the Defendant provided contact hour courses which required classroom instruction to City of Youngstown Water Department employees. Prior to teaching a course, the Defendant, as an approved training provider, was required to submit an agenda to Ohio EPA for approval through the Operations Resiliency and Certification Section ("ORCS"). Once the agenda or schedule is approved, the Defendant sets a date to teach the course(s). The Defendant taught courses at the Youngstown Water Department on his own time and considered it a side job from working at MVSD. The Defendant provided the Youngstown training students with a Certificate of Completion ("COC") after the courses are finished and the time the Defendant provided on each COC certified the number of contact hours for each course and represented actual classroom instruction time earned for the course. Each training student paid a fee of \$100.00 to the Defendant to provide classroom training for contact hours. In 2-day trainings scheduled in May, 2013 and September, 2014, the Defendant represented through COCs created and issued to Youngstown training students that he provided contact hour classroom training to Youngstown employees who were operators and needed contact hours for their licenses to be renewed. Security logs for the Youngstown Water Department for the dates of the scheduled training: May 4, 2013, May 5, 2013, September 18, 2014, and September 20, 2014, however, do not reveal any record of attendance of Youngstown Water Department employees for Defendant's scheduled trainings. Upon receipt of the COCs, Youngstown training students used the contact hours the Defendant certified and in some instances submitted the COCs themselves to

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Ohio EPA upon the agency's request, to renew their operator's licenses.

As to the charges of **Forgery**, the specific conduct of the Defendant alleged to constitute the offense and the location of the offense or any element of the offense charged in Count One and Count Four of the Indictment is as follows: for the 2-day trainings the Defendant scheduled at the Youngstown Water Department for the dates alleged in each count, in exchange for \$100.00 received from each Youngstown employee training student as a fee for the class, the Defendant created and issued invalid COCs that included his electronic signature, authenticating contact hours misrepresented as having been completed classroom training that Youngstown employee training students actually did not complete at two separate operator trainings on the dates listed in the charges that were scheduled for the Youngstown Water Department located at 160 North West Avenue, City of Youngstown, Mahoning County, Ohio.

Specifically, multiple invalid COCs with Defendant's electronic signature were issued to City of Youngstown training students for 8 contact hours (2 contact hours for The Chemical Fluoride, OEPA-B479109-OM; 6 contact hours for The Pumps & Pumping Systems for Water & Waste Water Operators, OEPA-B477580-OM) dated May 4, 2013, but City of Youngstown training students did not receive classroom training as required by the courses. Instead, training students were permitted to take a test with answers provided. Multiple invalid COCs with Defendant's electronic signature again were issued dated May 5, 2013 to City of Youngstown training students for 6 contact hours (2 contact hours for Lockout Tagout for Water & Waste Water Operators, OEPA-B439580-X; 4 contact hours for Confined Space Review for Water & Waste Water

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Operators, OEPA-B300452-X) when required classroom training was not conducted for City of Youngstown training students. For the 2-day training that was scheduled for May 4-5, 2013, the Defendant received \$100.00 per training student in exchange for the creation and issuance of multiple invalid COCs City of Youngstown training students used to renew their operator licenses with Ohio EPA's ORCS.

Invalid COCs with Defendant's electronic signature were issued to City of Youngstown training students dated September 18, 2014 for 8.5 contact hours (6 contact hours for The Pumps & Pumping Systems for Water & Waste Water Operators, OEPA-B477580-OM; 2.5 contact hours for CL2 Chemical Chlorine Safety, OEPA-B462810-OM) when required classroom training was not conducted for City of Youngstown training students; and invalid COCs with Defendant's electronic signature again were issued to City of Youngstown training students dated September 20, 2014 for 5 contact hours (5 contact hours for The Basic Chemistry 1 for Water & Waste Water Operators, OEPA-B458891-OM) when required classroom training was not conducted for City of Youngstown training students at the Youngstown Water Department. Defendant utilized an agent or liaison, City of Youngstown Water Department employee Steve Procick, to provide the tests and answer sheets in packets, and when training students were finished with the tests, the students provided the \$100 fee and a completed packet that were returned to Procick. The Defendant did not obtain Ohio EPA approval of an agenda of these courses scheduled for the Youngstown Water Department and did not teach the classes at the Youngstown Water Department. Instead, Procick provided the packets and money to the Defendant who issued the invalid COCs. City of Youngstown employees

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confirmed with investigators that they signed up for the scheduled 2-day trainings at the Youngstown Water Department but did not actually take classroom instruction. Instead, they filled out tests, paid the fee, and received COCs without the required classroom training. As it relates to September 18 & 20, 2014 training that was approved and held at the Meander Plant of MVSD, the Defendant issued a memo dated September 29, 2014 at MVSD, eleven (11) days after the Chlorine Safety Class that had been taught at the Meander Plant, acknowledging his fraudulent scheme of not requiring training students to attend classroom training. In the written memo, the Defendant offered MVSD training students who did not attend the Chlorine Safety Class “held previously“ at the MVSD Meander plant to take a quiz attached to the memo, sign in on an attendance sheet provided, and take the test related to “Chlorine Safety Class for Contact Hours” and complete the documents by October 10, 2014. The Defendant specifically stated in the memo “Please do not write any dates on the test” indicating that he was aware tests taken without classroom training would be fraudulent. Ohio EPA’s ORCS relied on each invalid COC the Defendant certified as a training provider in the operator renewal process involving City of Youngstown operators, including Ohio EPA audits of training students’ operator renewal applications that necessitated submission and review of Defendant’s invalid COCs as part of the renewal application process for purposes of reviewing and issuing operator renewal certifications for multiple City of Youngstown water department employees.

Defendant, through counsel, has been provided a written list of the Youngstown water department employees who received invalid COCs Defendant created and issued

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based on the 2-day trainings claimed in May, 2013 and September, 2014. Each of the invalid COCs is a spurious document that the Defendant created and issued in exchange for a monetary fee from each training student for the 2-day trainings that did not occur with classroom instruction. There is no third party with authorization to issue the COCs who, based on false information the Defendant provided, separately created or issued the COCs. Defendant himself created each invalid COC and authenticated each of them as a valid COC with his electronic signature. Defendant then issued each invalid COC provided to the training students who signed up for the courses at the Youngstown Water Department. With his electronic signature, the Defendant authenticated the purported validity of each of the invalid COCs with the misrepresentation of the number of contact hours actually earned.

Each of the invalid COCs and the misrepresented contact hours contained therein that Defendant certified as being valid led Ohio EPA's ORCS to believe that renewal applications from City of Youngstown employees who purportedly attended Defendant's classroom training either May 4-5, 2013 or September 18 & 20, 2014 had valid COCs and valid contact hours when the COCs and contact hours in fact were invalid, particularly when audits were conducted of multiple City of Youngstown employee renewal applications to verify listed contact hours from Defendant's 2-day trainings in May, 2013 and September, 2014 with the contact hours claimed in the COCs. As a result of this reliance, Ohio EPA's ORCS issued operator renewal certificates based on invalid COCs Defendant created and issued for personal profit received from the Youngstown students. Defendant intended to defraud or facilitated a fraud upon the Youngstown

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training students and/or Ohio EPA by creating and issuing invalid COCs for \$100.00 Defendant personally received from each training student for both of the 2-day trainings as an approved training provider for Ohio EPA. Defendant knew he had created and issued invalid COCs, which contained the misrepresented contact hours Defendant certified, that were relied upon by Ohio EPA's ORCS in the operator renewal application process.

As to the charges of **Noncompliance with Chapter 6109 Rules- Falsification**, the specific conduct of the Defendant alleged to constitute the offense and the location of the offense or any element of the offense charged in Count Two and Count Five of the Indictment is as follows: in addition to the aforementioned facts and circumstances related to the offense of Forgery, for the 2-day trainings the Defendant scheduled for the dates alleged in each count at the aforementioned location, Defendant made false material statements or representations of purported completed contact hours as part of invalid COCs that he issued in connection with his claimed 2-day classroom trainings the Defendant knew, as a an approved training provider, would be used in the operator renewal application process for Youngstown Water Department employees. All operators who submit a renewal application must list the courses and contact hours and are subject to audit and verification of training contact hours through Ohio EPA's ORCS, thus Defendant's invalid COCs and the purported contact hours contained therein were required to be submitted to the director of Ohio EPA under Chapter 6109, particularly when multiple Youngstown training students had their renewal application audited to verify contact hours and the invalid COCs were required to be submitted as part of the

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application process that Defendant certified as being valid COCs in his capacity as an approved Ohio EPA training provider. *See* Ohio Adm.Code 3745-7-15(C)(1)(c) & (D)(8). Renewals of operator's certificates were issued to Youngstown Water Department employees based on Defendant's purported training for which he created and issued invalid COCs.

As to the charges of **Tampering with Records**, the specific conduct of the Defendant alleged to constitute the offense and the location of the offense or any element of the offense charged in Count Three and Count Six of the Indictment is as follows: in addition to the aforementioned facts and circumstances related to the offense of Forgery and the offense of Noncompliance with Chapter 6109 Rules- Falsification, for the 2-day trainings the Defendant scheduled for the dates alleged in each count, the Defendant knowingly falsified the number of contact hours as stated in the invalid COCs as part of the renewal application documents an operator submits to the director of Ohio EPA, a state government entity. The records with the falsified contact hours, which did not reflect actual classroom instruction on the courses, were issued to City of Youngstown training students following the purported 2-day classroom trainings scheduled at the Youngstown Water Department. Further, by agency rule, as an approved training provider of Ohio EPA, Defendant was required to keep accurate records of student training, i.e. sign-in sheets of training students for attendance at the purported classroom training at the Youngstown Water Department and/or the COCs issued based on the classroom training; however, attendance records the Defendant kept as an Ohio EPA training provider and the COCs issued were false because training students did not

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complete the required classroom instruction for the contact hours the Defendant listed on the COCs as contact hour classroom training. See Ohio Adm.Code 3745-7-15(F)(1)(f), (F)(1)(g), & (F)(1)(k). The attendance sheets from the student trainings and/or the invalid COCs were a record of classroom student training required to be kept by Defendant as an approved training provider and are records kept by or belonging to Ohio EPA, a state government entity.

Respectfully Submitted:

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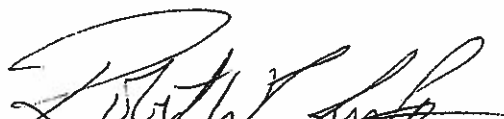
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Bill of Particulars was sent via regular U.S. Mail delivery, and a copy sent via email delivery, on the 14th day of May 2017, addressed to counsel for Defendant:

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