

friable asbestos abatement had been performed by Asbestek prior to this revision. Vadas changed the Specialist from Bonilla to Amaya, even though Amaya did not possess a valid Supervisor License. Vadas kept the contact person for Petitioner as himself, with his cell phone number. Vadas changed the start date from September 15, 2007 to September 22, 2007.

In the third revision of Friday, September 21, 2007 (Ex. 29), Vadas changed the abatement period from **four days** to **five days** at ten hours a day for a total of **fifty hours**. He changed the start date to Saturday, September 22, 2007. No change in estimate of material warranted this abatement period modification. No friable asbestos abatement had been performed by Asbestek prior to this revision. Vadas changed the contact person from “John P. Vadas” to “Anthony Paganelli.” In order to conceal this change, Vadas advised ODH that the purpose of the revision was to only change the abatement dates and the Specialist information, when he knew the abatement contact information was a material change, yet purposely failed to indicate it. Vadas was also aware that the Specialist information remained unchanged from the preceding revision, despite his representation otherwise. Neither Vadas nor Amaya had any communication with Paganelli or any person from Safe Environmental that would give rise to the change in identification of the “contact person.”

In the fourth revision of September 25, 2007 (Ex. 31), Vadas changed the dates of abatement from **five days** to **two days** at less than ten hours a day for a total abatement time of less than **twenty hours**. It is less than twenty hours, because unlike all other Notification Forms Vadas submitted, he identified the “set up” period to be included on the same dates that abatement was to occur, when he had previously identified “set up” to occur prior to abatement. Notably, the entire project, including set up and abatement was to be started and concluded on weekend, when the chance of inspection by ODH or the Ohio EPA would be zero. No change in

estimate of material warranted this abatement period modification. Vadas also represented that the abatement was completed, when he knew this information to be false.

This fourth revision, unlike the others, was submitted after a change, not prior to one. For example, Vadas submitted no change in anticipated abatement between the September 21 and the September 25 revision, even though he was aware that modifications to the September 21 revision occurred. The fourth revision was actually submitted because it coincided with ODH's unannounced visit and potential violations that began to arise as a result of improper asbestos abatement. (Ex. 30.) Vadas was aware of the significant problems that would ensue and therefore abruptly submitted the final revision to indicate that the project was complete in order to shift any violation blame upon Petitioner. In fact, Vadas told ODH representative who arrived that the "contractor" involved in the Site was Safe "Environment" and the representative erroneously transcribed this information through Vadas (see Ex. 30.) More importantly, Vadas failed to inform ODH representatives that the "contractor" was Asbestek, which would have been more consistent with Amaya's claim that Petitioner was only providing the Ohio License so that Asbestek could do the contracting.

The original Notification Form and the four revised Notification Forms submitted by Vadas reflect a series of changes in the contractor contact person, contractor phone number, and Supervisor Information. The contact person was identified as Vadas so that if ODH officials inquired, Vadas, not Petitioner, would receive any confirmation phone calls from ODH. Once Vadas was confident that any check on the first three Notification Forms had passed scrutiny, he submitted a revised form with Paganelli's contact information one day prior to abatement efforts. This, even though, he purposely failed to identify this change in the "revised lines number" section but instead purported that the purpose of the revision was to change the Specialist, even though this change had been performed in a prior revision. Vadas also submitted multiple forms

to thwart inspection efforts. In the first few notification forms, he identified one hundred hours of asbestos abatement time, occurring during daylight. When the actual anticipated period arrived, he dramatically changed the abatement schedule to less than twenty hours, on the weekend and under the cover of the night (Ex. 11, 337:12-13).

The multiple, revised notification forms account for Amaya's and Vadas' efforts to minimize the likelihood of inspection and to develop the most effective methods to avoid discovery of their scheme should their efforts be exposed. No change in abatement requirements or the availability of laborers (as those used were all "out of work") warranted the multiple revisions. Additionally, Amaya ceased working for Petitioner on September 11, 2007 and was available for work. And yet **all** revision Notification Forms were submitted after this date. Vadas, of course, was also unemployed and was available for work. The multiple revisions were in fact only sent as part of the plan to avoid ODH inspection because ODH officials would not be able to predict with any degree of accuracy when the abatement would be performed. Multiple revisions were also an effort to test the clerical oversight of ODH and to determine whether the Notification Forms were being scrutinized.

Finally, Vadas' change in Petitioner's contact person from "John P. Vadas" to "Anthony Paganelli" occurred on a Friday, immediately prior to Asbestek's pre-planned weekend "abatement" effort to reduce the likelihood of ODH contacting Petitioner or conducting an inspection until the following Monday, as Vadas identified abatement efforts to continue into the following week. Vadas predicted this perfectly because ODH made its inspection on Tuesday, September 25, 2007, at a time when Collins was demolishing the structure, which Vadas and Amaya believed would reduce the likelihood that any improper abatement efforts would be detected. As Vadas and Amaya spent nearly fourteen **hours** speaking to each other on the phone

from the Original Notification Form to the last¹⁹, their concern about the information in the Notification Forms was substantial and indicative of fraudulent effort. The timing of the weekend abatement effort significantly reduced risk of exposing the fraud, should no problems have arisen.

d. Amaya and Vadas Fraudulently Used Bonilla's Asbestos Supervisor License without Bonilla's Knowledge and When They Knew Bonilla Would Not Be Involved in Asbestek's Abatement Effort

Amaya's and Vadas' deceptive use of Petitioner's Ohio License is illustrated in the parallel and identical action they took in their fraudulent use of Bonilla's Supervisor License. In order to obtain approval from ODH, asbestos abatement contractors must identify a Specialist. Purposeful misuse of Specialist information on the Notifications is further evidence that Amaya and Vadas engaged in continued course of conduct of deception in order perform on the contract with Nationwide.

Amaya authorized Vadas to put Bonilla's name on the Notification Form that would be submitted to ODH. Amaya did this because he claims Bonilla gave him permission to use his Supervisor License (Ex. 12, 194:12-13) but Amaya had no plans for Bonilla to be employed or present at the Site and admitted that Bonilla had absolutely no connection with the job (Ex. 12, 194:12-22.) Amaya testified that he identified Bonilla merely to deceive ODH (Ex. 12, 195:10-196:10.) Amaya claimed that he received permission from Bonilla to use his Supervisor License around the same time he received authorization from Paganelli (Ex. 12, 182:17-183:3, Ex. 12, 256:6-16.) Amaya testified that he obtained a copy of Bonilla's Supervisor License by telling Petitioner's office manager "Chris" to get a copy ready for him (Ex. 12, 258:10 – 12) and that "Chris" confirmed that Bonilla authorized it (Ex. 12, 258:21-259:24.) Bonilla denied that he

¹⁹ See Section V.B.2.i, and Exhibit 85.

ever gave Amaya or Vadas authority to use his Supervisor License. As Bonilla testified in an Affidavit (Ex. 85):

1. Amaya never asked Bonilla to participate, in any form, in asbestos abatement work in Ohio;
2. Amaya never asked Bonilla for the use of his Ohio Supervisor License for any job in the State of Ohio;
3. Bonilla never agreed to provide Amaya his Ohio Supervisor License for any job in the State of Ohio.
4. Bonilla never agreed to provide Amaya his Supervisor Certificate; and
5. Any use of Bonilla's Ohio Supervisor License was without Bonilla's permission.

Amaya admitted that Bonilla had nothing to do with the Site. As further evidence that he did not obtain Petitioner's Ohio License, Amaya admitted that had Paganelli actually given him authority to use the Ohio License, admitted that he also would have provided him with a Supervisor License (Ex. 12, 181:8-19.) Amaya admitted that Bonilla was never at the Site (Ex. 12, 223:1-2) and that he only provided Bonilla's Supervisor License to pass check at ODH (Ex. 12, 265:15-28.) In fact Amaya admitted that whether it was Bonilla as Specialist or Safe Environmental as the contractor, it did not matter if the person or entity had anything to do with the job but that the information was just to satisfy a government requirement (Ex. 12, 265:19 - 266:21.)

Amaya testified that the person listed as the Specialist on the Notification Form to ODH does not actually have to be the site supervisor (Ex. 12, 192:20-21.) In fact, according to Amaya, ODH does not "care" who is listed as the Specialist as long as the Notification Form lists a valid Specialist (Ex. 12, 193:1-15.) Amaya testified:

Q: So, once again, you're saying that Carlos [Bonilla's] name should be [listed on the notification form]—

A: Yes.

Q: Because he gave you permission?

A: Yes.
Q: But it didn't matter that he had nothing to do with the Nationwide contract?
A: Nope.
Q: And it didn't matter that he was not going to be employed there?
A: No.
Q: And it didn't matter that he no connection to this project at all?
A: Nope.
Q: That you were just going to put his name down?
A: Yes.
Q: And that would be acceptable for Ohio Department of Health in order to approve your [notification]?
A: Yes. (Ex. 12, 194:9-195:9)

Vadas' approach to Bonilla's relation to Asbestek's work at the Site was similarly cavalier. When asked about whether Bonilla was actually present at the Site, Vadas testified,

Q. Okay. Did you get anything from Tomas Amaya?
A. Well, I got the name of the foreman, the supervisor.
Q. But you already had that from the July meeting, right?
A. Well, yeah, but I -- you know, I still had to put it down. I mean, did you want me to use [Bonilla] or do you want -- you know, how do you want to do this?
Q. What did he say?
A. He said put down [Bonilla].
Q. Did you ask him if [Bonilla] was going to be present?
A. No.
Q. Did you care?
A. Not really. It doesn't matter as long as a foreman is there. As a matter of fact, at that time, I wasn't even sure if --
Q. Did you say it doesn't matter as long as a foreman is there?
A. Well, a licensed foreman.
Q. But it doesn't -- didn't have to be [Bonilla], right?
A. No.
Q. Where did you learn that?
A. Where did I learn that? From running multiple jobs and seeing paperwork that didn't have -- that had everybody but the foreman on there. My name was -- I've run jobs where my name should have been there and it wasn't. (Ex. 11, 202:2-203:7.)

Amaya knew that Bonilla would have no relation to the Site and that use of his Supervisor License was deceptive (Ex. 12, 318:11-16.) Vadas was also immediately aware at his original meeting with Amaya that a Specialist was needed (Ex. 11, 188:7-10.) In fact, Vadas assisted Amaya in filling out an application for a Supervisor License for Amaya (Ex. 11, 188:15-

22.) Yet he never inquired of Amaya about the status of Amaya's Supervisor License when Amaya told him to use Bonilla's Supervisor License (Ex. 11, 280:3-15.) And Vadas changed the Specialist on the fourth revision Notification Form to identify the Specialist as Amaya when he knew Amaya was not so licensed. Vadas acknowledged that he identified Bonilla as the Specialist under the direction of Amaya (Ex. 11, 232:6-17.) Vadas never made any effort to clarify whether use of the Supervisor License was valid (Ex. 11, 232:19-20.) Vadas knew that Bonilla's Supervisor License was either being used without Bonilla's permission or that Bonilla was never going to be on site and therefore the Form to ODH was admittedly forged.²⁰ This is evidenced by the fact that Vadas first testified that he believed Bonilla was on site (Ex. 11, 233:12-17) but then that he knew he was not on site because "something came up where he was needed at another job." (Ex. 11, 337:20-338:2.) Amaya's and Vadas' use of Bonilla's Supervisor License is commensurate with their use of Petitioner's Ohio License: both were fully aware that neither license was authorized and they chose to forge the information in order to make a profit under the Nationwide contract.

e. Vadas Purposely and Skillfully Tailored His Facsimile Communication to Deceptively Convince Nationwide that Asbestek Was Licensed While Concealing the Same from the EPA.

As the Asbestek project manager in charge of communicating with Nationwide and preparing and submitting Notification Forms to ODH and the Ohio EPA, Vadas left a trail of skillfully prepared documents that illustrate his exhaustive concealment efforts. In a facsimile dated August 15, 2007, to Nationwide, Vadas used a facsimile header and footer identifying "John Vadas," "Asbestek" and "JPV Services" but made no representation regarding Petitioner. (Ex. 13.) He indicated in the facsimile that he has "sent off a check today for the registration fee

²⁰ Amaya's and Vadas' admission that Bonilla would not be the Specialist on site is an admission to violating R.C. §2913.31(A)(2) and (3).

to do business in Ohio along with the application,” referring to Asbestek’s attempt to obtain an Ohio License (Ex. 12, 106:4-12.) This license was never actually ever applied for; Amaya blames that on Vadas’ failure to actually submit it and due to pressure by Collins (Ex. 12, 106:24-107:9) while Vadas claims it was either denied or Amaya never sent it, but he never inquired further (Ex. 11, 280:8-15.)

In a facsimile dated August 16, 2007, also to Nationwide, Vadas used a facsimile header and footer identifying “John Vadas,” “Asbestek” and “JPV Services” but made no representation regarding Petitioner. (Ex. 15.) In this facsimile, Vadas indicated he was putting together a packet to the state just to “C.Y.A.²¹ and the State may want to see something.”

In a facsimile dated August 23, 2007, also to Nationwide, Vadas used a facsimile header and footer identifying “John Vadas,” “Asbestek” and “JPV Services” but made no representation regarding Petitioner (Ex. 16.) In this facsimile, Vadas stated that he had just learned that an Ohio License was necessary to perform friable asbestos abatement. This, of course, is false, since Vadas had known this since his first meeting with Amaya and likely knew this for years. He blamed this problem on advice from officials at ODH but soothed Nationwide by indicating that Asbestek will be using Ohio workers and an Ohio Supervisor and suggests that he will rely on this in the event of breach. He also indicated that despite this problem, “we will move on the friable A.S.A.P.”

In a facsimile dated August 24, 2007, also to Nationwide, Vadas used a facsimile header and footer identifying “John Vadas,” “Asbestek” and “JPV Services” but made no representation regarding Petitioner. (Ex. 18.) In this facsimile, he definitively stated that Asbestek may not have an Ohio License in time to begin friable asbestos removal and indicated that he and Amaya have a “business associate” who has an Ohio License and with whom Amaya has a very good

²¹ C.Y.A. is a slang term with the common meaning, “to cover your ass.”

relationship. He also reassured Collins that they “are still going to get our license for Ohio.” Vadas knew that no Ohio License would ever be obtained by Asbestek in time to perform the friable asbestos abatement because no application had been submitted.

In a facsimile dated August 31, 2007, also to Nationwide, Vadas used a facsimile header and footer identifying “John Vadas,” “Asbestek” and “JPV Services” but made no representation regarding Petitioner. He advised Nationwide that Asbestek would be using “Safe Environment [sic] Corporation of Indiana’s” Ohio License. Yet, in the facsimile, he provided Nationwide a copy of the EPA Notification Form stating that the contractor was “Asbestek” with the Ohio License as “Pending in Ohio.” (Exs. 19, 20.)

Also in a facsimile dated August 31, 2007, to Nationwide, Vadas used a facsimile header and footer identifying “John Vadas,” “Asbestek” and “JPV Services” but now added “Safe Environment” in the header. In the footer, he added “Safe Environment” as a contact but listed his cell phone number after Petitioner’s name. (Ex. 26.) Despite this new alleged alliance with Petitioner, which, if truly authorized would have allowed Asbestek to commence work immediately, Asbestek did not start work for three more weeks. Vadas still showed concern by stating “we will play it by the book on the friable containment and glove bag work” and expressed concerns about Asbestek’s ability to actually perform under the friable portion of the contract. He also advised that the dates he indicated to ODH are not correct, but just that “I just have to put something that looks good to a regulator.” He indicated that the friable asbestos will only take two or three days when he notified ODH and Ohio EPA on this same date that the project would take at least ten days.

Also in a facsimile dated August 31, 2007, but this time to the Ohio EPA, Vadas removed the Safe Environmental alliance. Notably, he also removed any evidence relating to Vadas, including “JPV Services,” JPV Services’ website, JPV Services’ e-mail and Vadas’ fax number

from the header and footer, instead only identifying “Asbestek” (Ex. 27.) This facsimile accompanied the submission of the Ohio EPA Notification Form. Vadas did not want to alert the Ohio EPA about Asbestek’s use of Petitioner’s Ohio License because it was unauthorized and Ohio EPA would likely conduct an inspection. Vadas calculated that if Ohio EPA conducted an inspection, it would be unaware that Asbestek had used Petitioner’s credentials in the Notification Form to ODH. Most telling of this plan is that no subsequent revision was sent to the EPA to correct the “error” of the Ohio License.

Amaya admitted that this was, in fact, the plan:

Q: So isn’t it true that what was being accomplished here was that any communication to Nationwide should have that new Safe Environment label because they had to be convinced --*** -- that Safe Environment was involved, right?

A. Yes.

Q. But when communicating with the authorities, you would not want to have Safe Environment because they weren’t really involved, right?

A: Not really involved. It’s kind of -- it’s not really because somehow they got involved.

Q. But the point is don’t raise a flag about it, right?

A. Yes.

Q. Is that fair to say? So take out Safe Environment when you’re talking to the authorities, right?

A. Yes. (Ex. 12, 249:1-250:4.)

Vadas described these discrepancies as follows: “It doesn’t really matter. I mean sometimes I forget to do things” (Ex. 11, 260:10-11) and “Asbestek has nothing to do with Safe Environment.” (Ex. 11, 261:12-14.) When questioned about his use of his cell phone number for the contact for Safe Environmental he testified, “Why would I [use Safe Environment’s phone number...Nationwide] has no business with Safe Environment” (Ex. 11, 261:20 -262:2) and “these discrepancies are bullshit.” (Ex. 11, 266:24.)

These discrepancies can be explained only by the fact that Vadas sought to conceal from the EPA any connection to Petitioner, because he knew no legitimate relationship existed. Most telling of this effort is the two facsimiles on August 31, 2007, both sent at the exact same time of 10:39 a.m., on the same date that Vadas also filed the first Notification Form to ODH, wherein he took great effort to conceal what should have been a great alliance with Petitioner if it were true. If Vadas actually believed he had permission from Petitioner, he would have been eager to inform the EPA of an actual Ohio License rather than a “pending” license.

f. Vadas Was Admittedly Unfamiliar with Notification Requirements but Never Sought the Assistance of Petitioner

If Vadas believed that Asbestek’s Ohio License issue was allegedly resolved on August 31, 2007, Vadas would have had Petitioner at his disposal for guidance and assistance in properly preparing Notification Forms. Yet, he made no calls to Safe Environmental. (Ex. 11, 207:11-209:7.) In fact Vadas claimed that he struggled through multiple revision forms, making self-admitted mistakes and purported constant calls to ODH. Vadas testified repeatedly that he was overwhelmed by paperwork and had little experience in preparing notification forms:

Q: Once you knew about [allegedly being authorized to use Petitioner’s Ohio License], did you send a second revision [Notification Form to the EPA]?

A. No.

Q. Why not?

A. I don’t remember. Probably because I was so busy trying to get the other paperwork together. I was overwhelmed with paperwork and manpower and trying to get this job going. (Ex. 11, 320:5-12.)

Q. You didn’t know what you were doing [with the various Notification Forms], did you?

A. Well, no, I’m not going to say I didn’t know what I was doing. I was -- I was answering the questions. And when I had a question, I would call Mark Needham or Jeff Gerdes or like you had the cover page there, somebody from the EPA or somebody from the Department of Public Health and ask them and one person would give me one answer and

another person would give me another. Well, don't worry about it. Just add -- just put it -- throw another revision at us, okay. (Ex. 11, 327:18-328:5.)

A: I did stay in contact with the EPA. I called them frequently on questions I had because I wasn't 100 percent familiar with Ohio law and I didn't know if there was any differences between that and whatever I knew about Illinois. (Ex. 11, 197:22-198:2.)

A: *** You know, again, I'm not an expert at paperwork regarding ten-day notifications or anything --

Q. Did you tell Tomas that you were not an expert?

A. He knew that.

Q. How did he know that?

A. Well, because he worked with me for the last year prior so.

Q. So Tomas knew that you were not an expert in filling out ten-day notifications?

A. Well, who is? I mean, most of the -- the people that fill those out are usually secretaries or something like that.

Q. That's not a very extensive form, is it?

A. No. You just pretty much read -- but if you don't have the answers, you can't send it in. I mean, I don't -- I didn't know the age of the building. I didn't know who did know that fact. I didn't know the name of the owner. There was things that I just -- that weren't present in any document that I was privy to or that I received.²²

Q. Did you ever call the Department of Health and ask a person there to assist you in answering any of the questions on there?

A. Yes.

Q. Okay. When was that?

A. Probably on one of my trips going back home. I might have called the EPA. I can't remember who I spoke with but --

Q. Do you know if you -- do you know who -- do you know -- do you remember what questions you asked?

A. Well, one particular question I was concerned about leaving the dumpsters on site. They were un -- they were --

Q. If I may, my question to you was about the notification form. Did you ever ask anyone at the Ohio Department of Health for assistance on filling

²² Notification Forms, which was being discussed in this exchange, do not require such information as the "age of the building." The owner was not a complex issue because Vadas knew this from the onset (see Exhibits 22, 23, 27, 28, 29 and 30.) The variations in each of his revision Notification Forms only dealt with proposed abatement periods and contact information for Petitioner. Vadas' preoccupation with Petitioner's contact information could have been resolved immediately with a call to Petitioner (if use of Petitioner's Ohio License was legitimate) by Amaya or Vadas, which **never** occurred.