

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

*

CRIMINAL DOCKET NO.: 20-18

v.

*

SECTION: "I"

MARC A. VICTORIANO

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* * *

FACTUAL BASIS

Defendant, **MARC A. VICTORIANO**, ("**VICTORIANO**") has agreed to plead guilty to Count One of the Indictment charging him with theft concerning programs receiving federal funds, in violation of Title 18, United States Code, Section 666(a)(1)(A). Both the Government and the defendant, **MARC A. VICTORIANO**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crime to which the defendant is pleading guilty. The Government and the defendant further stipulate that the Government would have proven through the introduction of competent testimony and admissible, tangible exhibits, the following facts beyond a reasonable doubt, to support the allegations in the Indictment now pending against the defendant, **MARC A. VICTORIANO**.

The Government would establish through the introduction of documentary evidence and testimony of the representatives of the Terrebonne Parish School Board ("**TPSB**") that the Terrebonne Parish School District is governed by the **TPSB** which receives federal funds from the U.S. Department of Education in excess of \$10,000 annually, which was deposited in the **TPSB** General Operating Account.

AUSA JKS
Defendant MAV
Defense Counsel \$

The Government would further show that prior to 2011, TPSB hired defendant **VICTORIANO** a/k/a Professional Safety Consultants, LLC ("PSC")¹ to perform environmental consultant services for the TPSB public schools. **VICTORIANO** was the sole person responsible for detecting mold, asbestos, mildew and other hazards in the public schools in Terrebonne Parish. Specifically, this work included asbestos inspections of TPSB public schools and facilities as mandated by the Asbestos Hazard Emergency Response Act ("AHERA"). **VICTORIANO** was responsible for conducting walk through inspections prior to all facility renovations, demolitions or large maintenance jobs at any of the facilities in an effort to mitigate contact with asbestos. As an agent of TPSB, **VICTORIANO** "oversaw" or supervised all contractors hired to perform environmental abatement and remediation at the TPSB facilities. **VICTORIANO** was to report to TPSB if the contractors did not fulfill their roles on the projects they were hired to perform. Also, the contractors would not be paid until the projects were deemed completed and approved by **VICTORIANO**.

Under AHERA, each school or facility must maintain an Asbestos Operations & Maintenance Plan addressing all areas confirmed or suspected to contain asbestos. These records are maintained on site at each school or facility and also in a centralized location at the school district.² The Plans must be made available to the Louisiana Department of Environmental Quality ("LDEQ") and/or the United States Environmental Protection Agency ("EPA") during compliance inspections.

¹ PSC consisted of Marc Victoriano, and occasionally his brother, who worked part time for Victoriano during the 2014-2016 time period.

² Victoriano was also responsible for overseeing and conducting sampling for mold and mildew as well as cleaning and remediation of any confirmed mold or mildew.

The AHERA management plan manuals for each public school must be evaluated and updated every three years. TPSB was required to have an environmental consultant - **VICTORIANO** - conduct a re-inspection of all friable and nonfriable known or assumed asbestos in each school building they lease, own or use from Head Start, Pre-K programs, elementary, or secondary education to include: structures used for instruction, including classrooms, laboratories, libraries, research facilities and administrative buildings, cafeteria and school kitchens, gymnasiums, storage or maintenance facilities.

To initiate a project, **VICTORIANO** would submit a fee proposal for work to TPSB, such as the three year re-inspection, which generally identified the names and/or number of schools to be addressed. The fee proposal included a fee schedule of services: \$38 an hour for a field technician, \$23 an hour for administrative or clerical work and \$150 to review and replace sections of each manual. For example, the September 23, 2016 proposal for a three year re-inspection contained an estimate cost of \$43,000.00³.

A former manager at TPSB would testify that **VICTORIANO** would request a purchase order number from TPSB based on the scope of work he would perform. That number would then be submitted on corresponding invoices to TPSB and then it would be forwarded to the financial department for payment.

After **VICTORIANO** completed his environmental remediation, he submitted an invoice to TPSB for payment. TPSB issued a check to Professional Safety Consultants for the amount on the invoice from the TPSB General Operating Account (account number XXXXXX254)

³ A fee proposal from **VICTORIANO** also included "terms and conditions" requiring TPSB to pay interest of 1.5 percent on any amounts not paid within 45 days, including attorney's fees or other costs incurred in collecting delinquent amounts. If TPSB decided to terminate **VICTORIANO**, defendant reserved the right to complete the work to protect his professional reputation.

maintained at J.P. Morgan Chase Bank. As stated previously, the TPSB General Operating Account receives the federal funds in excess of \$10,000 annually, from the U.S. Department of Education.

A representative of the TPSB would testify that as the environmental consultant for TPSB, **VICTORIANO** was authorized to act on behalf of TPSB regarding all environmental matters and was authorized to act on behalf of TPSB with regards to its funds. As explained below, if this case went to trial, the evidence would show that **VICTORIANO** used his position of authority and trust to submit false documents, namely invoices with false test results, to induce the financial department at TPSB to issue checks payable to **VICTORIANO** or his company, Professional Safety Consultants.

A Task Force Officer for the EPA would testify that during a compliance inspection, LDEQ inspectors discovered forged and false AHERA documents and test results at TPSB for the 2015-2017 time period by **VICTORIANO**. These documents included falsified air monitoring reports for multiple school facilities. Specifically, an LDEQ inspector initiated contact with the asbestos testing laboratory utilized by **VICTORIANO** in an effort to obtain more information. The asbestos testing laboratory could not validate the analysis in the lab reports or the employment of the lab signatory displayed on the same report. Thereafter, LDEQ inspectors discovered multiple false lab reports submitted by **VICTORIANO**. LDEQ inspectors were told by the asbestos testing laboratory that the asbestos lab reports could not be authenticated and they "appear to be altered or a fraudulent copy of an earlier report from our company." **VICTORIANO** submitted 56 invoices to TPSB with fraudulent laboratory reports, the invoices of which totaled

\$155,618.26. Below is a chart setting forth the false lab reports submitted by VICTORIANO to TPSB:

January 2015-2017 (Fraudulent Sample Reports)

Check Number	Check Date	Invoice Number	Invoice Date	Description	Total
11-106983	06/03/2015	PSC-TP-808	04/23/2015	Environmental Remediation with Mold/IAQ testing	\$1,490.20
11-107094	06/10/2015	PSC-TP-809	05/27/2015	Environmental Remediation with Mold/IAQ testing	\$1,002.20
11-107286	06/25/2015	PSC-TP-813	06/07/2015	Environmental Remediation: Asbestos Abatement and samples	\$2,755.60
11-107286	06/25/2015	PSC-TP-817	06/07/2015	Environmental Remediation with Mold/IAQ testing	\$1,524.80
11-107286	06/25/2015	PSC-TP-816	06/07/2015	Environmental Remediation with Mold/IAQ testing	\$2,385.80
11-107766	07/24/2015	PSC-TP-824	07/05/2015	Environmental Remediation: Asbestos Abatement and samples	\$5,152.20
11-107966	08/10/2015	PSC-TP-827	07/20/2015	Environmental Remediation: Asbestos Abatement and samples	\$3,065.20
11-107966	08/10/2015	PSC-TP-828	07/20/2015	Environmental Remediation with Mold/IAQ testing	\$1,788.20
11-108151	08/26/2015	PSC-TP-829	07/28/2015	Environmental Remediation with Mold/IAQ testing	\$6,100.20
11-108538	09/25/2015	PSC-TP-833	09/02/2015	Environmental Remediation with Mold/IAQ testing	\$4,694.50

11-109394	11/20/2015	PSC-TP-839	11/15/2015	Environmental Remediation: Asbestos Abatement and samples	\$4,208.76
11-109585	12/10/2015	PSC-TP-841	11/20/2015	Environmental Remediation: Asbestos Abatement and samples	\$9,332.60
11-109585	12/10/2015	PSC-TP-840	11/15/2015	Environmental Remediation with Mold/IAQ testing	\$827.20
11-110123	01/26/2016	PSC-TP-842	12/18/2015	Environmental Remediation: Asbestos Abatement and samples	\$6,254.10
11-110308	02/05/2016	PSC-TP-844	01/18/2016	Environmental Remediation: Asbestos Abatement and samples	\$2,974.05
11-110536	02/26/2016	PSC-TP-845	02/08/2016	Environmental Remediation: Asbestos Abatement and samples	\$3,224.80
11-110754	03/10/2016	PSC-TP-847	02/29/2016	Environmental Remediation: Asbestos Abatement and samples	\$982.20
11-111069	04/08/2016	PSC-TP-849	03/18/2016	Environmental Remediation: Asbestos Abatement and samples	\$2,118.60
11-111277	04/26/2016	PSC-TP-851	03/26/2016	Environmental Remediation: Asbestos Abatement and samples	\$4,805.20
11-111718	05/26/2016	PSC-TP-854	05/22/2016	Environmental Remediation: Asbestos Abatement and samples	\$1,312.20
11-111920	06/08/2016	PSC-TP-857	06/05/2016	Environmental Remediation: Asbestos Abatement, samples and Mold/IAQ	\$2,634.68

11-111920	06/08/2016	PSC-TP-856	06/05/2016	Environmental Remediation: Asbestos Abatement and samples	\$2,142.92
11-112105	06/22/2016	PSC-TP-859	06/21/2016	Environmental Remediation: Asbestos Abatement and samples	\$1,423.20
11-112105	06/22/2016	PSC-TP-860	06/21/2016	Environmental Remediation with Mold/IAQ testing	\$5,408.20
11-112105	06/22/2016	PSC-TP-858	06/21/2016	Environmental Remediation: Asbestos Abatement and samples	\$5,188.20
11-112270	06/30/2016	PSC-TP-861	06/21/2016	Environmental Remediation with Mold/IAQ testing	\$2,294.20
11-112270	06/30/2016	PSC-TP-862	06/27/2016	Environmental Remediation: Asbestos Abatement and samples	\$3,043.20
11-112574	07/29/2016	PSC-TP-863	07/12/2016	Environmental Remediation: Asbestos Abatement and samples	\$2,732.20
11-112574	07/29/2016	PSC-TP-865	06/27/2016	Environmental Remediation: Asbestos Abatement and samples	\$1,172.20
11-112574	07/29/2016	PSC-TP-864	07/12/2016	Environmental Remediation: Asbestos Abatement and samples	\$1,314.40
11-112574	07/29/2016	PSC-TP-867	07/15/2016	Environmental Remediation: Asbestos Abatement and samples	\$776.20
11-112696	08/10/2016	PSC-TP-871	07/29/2016	Environmental Remediation: Asbestos Abatement and samples	\$1,495.95
11-112696	08/10/2016	PSC-TP-870	07/29/2016	Environmental Remediation with Mold/IAQ testing	\$432.20

11-112930	08/26/2016	PSC-TP-874	07/29/2016	Environmental Remediation with Mold/IAQ testing	\$5,135.20
11-113183	09/09/2016	PSC-TP-878	07/29/2016	Environmental Remediation with Mold/IAQ testing	\$1,928.85
11-113504	09/23/2016	PSC-TP-879	07/29/2016	Environmental Remediation with Mold/IAQ testing	\$3,257.60
11-113504	09/23/2016	PSC-TP-881	09/09/2016	Environmental Remediation with Mold/IAQ testing	\$2,233.68
11-114006	10/26/2016	PSC-TP-887	10/05/2016	Environmental Remediation with Mold/IAQ testing	\$1,379.40
11-114188	11/10/2016	PSC-TP-890	10/24/2016	Environmental Remediation: Asbestos Abatement and samples	\$2,415.50
11-114360	11/18/2016	PSC-TP-892	11/07/2016	Environmental Remediation with Mold/IAQ testing	\$2,785.92
11-114360	11/18/2016	PSC-TP-891	11/07/2016	Environmental Remediation with Mold/IAQ testing	\$1,934.40
11-116783	06/19/2017	PSC-TP-906	05/26/2017	Environmental Remediation: Asbestos Abatement and samples	\$3,423.00
11-116783	06/19/2017	PSC-TP-909	06/05/2017	Environmental Remediation: Asbestos Abatement and samples	\$1,544.20
11-117003	06/30/2017	PSC-TP-912	06/26/2017	Environmental Remediation: Asbestos Abatement and samples	\$5,646.12
11-117003	06/30/2017	PSC-TP-913	06/12/2017	Environmental Remediation: Asbestos Abatement and samples	\$2,435.20
11-117003	06/30/2017	PSC-TP-914	06/29/2017	Environmental Remediation: Asbestos Abatement and samples	\$2,124.20

11-117361	08/10/2017	PSC-TP-904	04/13/2017	Environmental Remediation: Asbestos Abatement and samples	\$3,855.30
11-117361	08/10/2017	PSC-TP-925	07/31/2017	Service: Environmental Hazards with Mold/IAQ testing	\$1,705.20
11-117231	07/26/2017	PSC-TP-916	07/07/2017	Environmental Remediation: Asbestos Abatement and samples	\$1,308.20
11-117231	07/26/2017	PSC-TP-921	07/19/2017	Environmental Remediation with Mold/IAQ testing	\$5,030.80
11-117538	08/25/2017	PSC-TP-928	08/07/2017	HVAC Service: Environmental Hazards with Mold/IAQ testing	\$2,793.53
11-118044	09/26/2017	PSC-TP-930	08/21/2017	Repairs: Environmental Hazards with Mold/IAQ testing	\$1,668.68
11-118044	09/26/2017	PSC-TP-931	08/18/2017	Repairs: Environmental Hazards with Mold/IAQ testing	\$1,946.12
11-118685	11/10/2017	PSC-TP-936	10/27/2019	Environmental Remediation with Mold/IAQ testing	\$647.20
11-118685	11/10/2017	PSC-TP-934	10/20/2017	Environmental Remediation with Mold/IAQ testing	\$2,819.20
11-118685	11/10/2017	PSC-TP-935	10/21/2017	Environmental Remediation with Mold/IAQ testing	\$862.20
11-119851	02/23/2018	PSC-TP-937	12/12/2017	Environmental Remediation with Mold/IAQ testing	\$682.20

\$155,618.26

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Defendant MAV
Defense Counsel S

LDEQ investigators also discovered that **VICTORIANO** had forged the signature of Witness A, as well as the asbestos inspector accreditation number for Witness A on asbestos inspection reports for TPSB prior to 2018. **VICTORIANO** had lost his accreditations by LDEQ in 2009. Witness A is an accredited Asbestos Inspector since 2007. Witness A would testify that he/she was approached by **VICTORIANO** prior to 2015 to do "side work" for him, however that did not include AHERA inspections of TPSB schools and facilities. Witness A would also testify that in early 2018, **VICTORIANO** asked Witness A to update the TPSB Asbestos Management Plans. During the 2018 inspections, Witness A saw that his/her name and inspector accreditation number were used by **VICTORIANO** on numerous TPSB AHERA reports without Witness A's consent. Specifically, there were 101 instances that **VICTORIANO** forged Witness A's name and accreditation information on AHERA reports in the 2015 to 2017 time period.

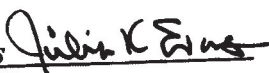
Below is a chart setting forth the invoices submitted to TPSB for the asbestos reports which contained Witness A's forged signature and accreditation number submitted by **VICTORIANO**:

January 2015-2017 (False Signatures on AHERA Reports)

Check Number	Check Date	Invoice Date	Description	Total
11-105797	3/10/2015	2/26/2015	Environmental Remediation; 40 six month AHERA reports	\$6,300
11-113769	10/10/2016	9/9/2016	Environmental Remediation; AHERA 3-year	\$1,200
11-113769	10/10/2016	9/23/2016	Environmental Remediation; AHERA 3-year	\$1,200
11-114006	10/26/2016	10/5/2016	Environmental Remediation; FIVE (5) AHERA updates	\$6,850
11-114188	11/10/2016	10/24/2016	Environmental Remediation; SIX (6) AHERA updates	\$9,200

11-114188	11/10/2016	11/7/2016	Environmental Remediation; FIVE (5) AHERA updates	\$8,750
11-114559	12/9/2016	11/29/2016	Environmental Remediation; ELEVEN (11) AHERA updates	\$11,000
11-114852	1/10/2017	11/27/2016	Environmental Remediation; SIX (6) AHERA updates	\$7,200
11-118044	9/26/2017	7/10/2017	Repairs; FORTY (40) AHERA updates	\$5,300
				\$ 57,000


The above facts come from an investigation conducted by and would be proven at trial with credible testimony from Special Agents from the U.S. Environmental Protection Agency, Investigators from Louisiana State Police and Investigators from Louisiana Department of Environmental Quality, as well as witnesses, documents and tangible exhibits in the custody of the U.S. Environmental Protection Agency.

s/ Julia K. Evans 
JULIA K. EVANS
Assistant United States Attorney

9/2/20
Date

Marc A. Victoriano
MARC A. VICTORIANO
Defendant

8/27/20
Date


JEROME G. SMITH, III
Attorney for Defendant

8/27/20
Date