



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001**

February 28, 2003

IA-02-050

Anthony Maimone
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790]

**SUBJECT: NOTICE OF VIOLATION
(NRC Office of Investigations Report No. 1-2001-031)**

Dear Mr. Maimone:

This refers to the investigation conducted by the NRC Office of Investigations (OI) at United Evaluation Services (UES), previously known as Accurate Technologies Incorporated, to determine, in part, whether UES employees submitted falsified training certifications and various radiation safety related documents, and whether UES employees conducted radiography at an unauthorized facility. As noted in the factual summary of the OI investigation, which was sent to you on November 5, 2002, the NRC determined that on January 18, 2002, you deliberately conducted radiography at an unauthorized location and you provided false testimony to the NRC regarding this violation. In addition, OI determined that you knowingly participated in the creation and/or certification of a false radiographer refresher training exam and deliberately backdated or created other documents before an NRC inspection. The November 5, 2002, letter noted that these findings constituted apparent violations of 10 CFR 30.10.

As noted in that factual summary, the apparent violations occurred, in part, due to your deliberate wrongdoing as an assistant radiographer at UES. As a result, the NRC sent you the November 5, 2002, letter which offered you the opportunity to either respond in writing to the apparent violations, or request a predecisional enforcement conference. During a telephone conversation with Ms. Judy Joustra, you indicated that you wanted to attend a predecisional enforcement conference. A predecisional enforcement conference was held with you on December 12, 2002.

At the conference, you indicated that you did not recall conducting radiography at an unauthorized location, (namely, the licensee's facility located in Beachwood, New Jersey) on January 18, 2002. However, the NRC has determined that you deliberately conducted radiography at the facility, knowing that you were not authorized to conduct radiography at the facility. In making that determination, the NRC considered (1) your testimony to OI that you performed radiography with another individual on that date, as well as (2) the testimony of the other individual that you performed radiography with him at the Beachwood location on that date. You also indicated, during an interview with the NRC on April 3, 2002, that you were aware that radiography was not allowed at that location.

At the conference, you also admitted that you completed a refresher training examination for a radiographer because the radiographer was your friend and your supervisor asked you to do it. You stated that you knew it was the wrong thing to do, and would not do this in the future. In addition, you stated that you did not remember creating or backdating any specific documents, although you acknowledged rewriting a few documents that were not done on the days they should have been completed. You indicated that you now have a better understanding of radiography requirements, and would not commit such violations in the future.

Further, although you also stated that you did not specifically recall signing two quarterly field audits using the name of a radiographer, the NRC has concluded that you forged the signatures of the radiographer on these records based on testimony from another UES employee regarding the forged signatures, and your own admission with respect to falsifying the same radiographer's training exam.

Finally, the NRC also determined that you deliberately made false statements to the NRC, during both the inspection and investigation, as noted in the enclosed Notice.

Based on the information from the OI investigation and the information you provided during the conference, the NRC has determined that the violations occurred as stated in our November 5, 2002, letter. As such, you violated 10 CFR 30.10 in that by engaging in deliberate misconduct, you caused the licensee, UES, to be in violation of 10 CFR 30.9, 10 CFR 34.41(b) and 10 CFR 34.79. Given the deliberate nature of your actions, the violations have been categorized in accordance with Supplement VII of the "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy), NUREG-1600, at Severity Level III.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities because of your actions, given the egregious nature of the violations. However, after considering the circumstances of this case, including the fact that you were not in a supervisory position in the company, I have decided not to issue an Order. However, you should be aware that any similar actions in the future involving NRC licensed activities at a licensed facility, whether identified by your employer, or by the NRC during an inspection or investigation, could result in more significant enforcement action against you.

Since you informed the NRC during the enforcement conference that you would not engage in such violations in the future, you are not required to respond to this letter unless this description does not accurately reflect your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

If you have any questions regarding this letter, please contact Mr. John Kinneman of the staff at (610) 337-5252.

A. Maimone

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In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures with your home address removed, and any response will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/

Frank J. Congel, Director
Office of Enforcement

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Notice of Violation

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ENCLOSURE

NOTICE OF VIOLATION

Anthony Maimone

IA-02-050

During an NRC investigation conducted by the NRC Office of Investigation between October 31, 2001, and August 12, 2002, three violations of NRC requirements were identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," NUREG-1600, the violations are listed below:

- A. 10 CFR 30.10 (a)(1) states, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or any term, condition, or limitation of any license issued by the Commission.

10 CFR 30.9(a) requires, in part, that information required by the Commission's regulations to be maintained by the licensee, shall be complete and accurate in all material respects.

10 CFR 34.79 requires, in part, that each licensee shall maintain records of training, certification, annual refresher safety training, and semiannual inspection of job performance for each radiographer and radiographer assistant for three years after the record is made.

Contrary to the above;

1. On or about October 9, 2001, you caused United Evaluation Services (UES), formerly Accurate Technologies, to be in violation of 10 CFR 30.9 in that you knowingly created a false refresher training examination, required to be maintained by 10 CFR 34.79, for a radiographer who had not taken the examination within the annual time requirement. Specifically, the examination was false because the radiographer did not complete the examination, and the examination was not completed on the date indicated on the record (September 1, 2001). You admitted, during a conference with the NRC conducted on December 12, 2002, that you had completed the examination for the radiographer whose name was on the examination record. This record was material to the NRC because it was used to determine compliance with NRC requirements; and,
2. On October 9, 2001, you caused United Evaluation Services (UES), formerly Accurate Technologies, to be in violation of 10 CFR 30.9, in that you knowingly participated in the creation of false Quarterly Field Audit records, dated May 2, 2001, and July 13, 2001, which were required to be maintained pursuant to 10 CFR 34.79. The records were false in that the field audit records were not completed on the date indicated, and you signed the name of the radiographer (who was the subject of the audit) on the record. Your actions were deliberate because you knew you were forging the signature of a radiographer on these records. The records were material to the NRC because they were used to determine compliance with NRC requirements.

- B. 10 CFR 30.10 (a)(1) states, in part, that any licensee or employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or any term, condition, or limitation of any license issued by the Commission.

10 CFR 34.41(b) requires that all radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the Commission.

Contrary to the above, on January 18, 2002, you (as an assistant radiographer) deliberately caused United Evaluation Services (UES), formerly Accurate Technologies, to be in violation of 10 CFR 34.41(b) when you conducted radiographic operations at the licensee's facility located in Beachwood, New Jersey, knowing that the facility was not a permanent radiographic installation and the Commission did not specifically authorize this use. Your actions were deliberate in that you admitted, during an interview with the NRC Office of Investigations, that you were aware, throughout your employment with the licensee, that radiography could not be performed at the licensee's Beachwood facility.

- C. 10 CFR 30.10 (a)(2) requires, in part, that any employee may not deliberately submit to the NRC information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, you deliberately submitted to the NRC information that you knew to be inaccurate in some respect material to the NRC. Specifically,

1. when questioned by OI on April 3, 2002, you deliberately provided false testimony to the NRC by stating that you did not perform radiography at the unauthorized Beachwood, New Jersey location. The testimony was false because another licensee employee admitted to the NRC that the radiography was performed with you at that unauthorized location on January 18, 2002, and you knew that the radiography you had performed at the facility was not authorized when you were questioned by OI; and,
2. when questioned by an NRC inspector on October 10, 2001, you provided false information regarding the completion of a Site Storage Log for radiography exposure device S/N 4607. The information was false because you stated that the log was completed on each day of use. However, based on statements from other licensee employees, the NRC determined that the entire log was created on October 9, 2001. These statements were deliberate in that you knew, when questioned by an NRC inspector, that the Site Storage log had not been completed on each day of use. These statements were material to the NRC because they were used to determine compliance with NRC regulations.

These violations are classified at Severity Level III violation (Supplement VII).

Since you informed the NRC during the enforcement conference that you would not engage in such violations in the future, no response to this Notice is required. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if this description does not accurately reflect your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, D.C. 20555-0001.

If you choose to respond, your response will be placed in the NRC Public Document Room (PDR). Therefore, to the extent possible, the response should not include any personal privacy or proprietary information so that it can be placed in the PDR without redaction. ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Dated this day of February 2003