



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

August 2, 2005

IA-05-031

Stanley Pitts
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2004-027)

Dear Mr. Pitts:

The enclosed Order Prohibiting Involvement in NRC-Licensed Activities (Order) is being issued to you based on an investigation by the U. S. Nuclear Regulatory Commission (NRC) Office of Investigations (OI). The Code of Federal Regulations (CFR), specifically, 10 CFR 30.3, prohibits anyone from transferring, receiving, acquiring, owning, or possessing byproduct material except as authorized in a specific or general license issued by the NRC or an Agreement State. Based on information obtained during the OI investigation, we determined that you deliberately possessed licensed byproduct material contained in a portable gauging device (Troxler Model 3430, Serial No. 75-5183) that was specifically licensed to Professional Inspection and Testing Services (PITS), Inc., and did so without their knowledge. Specifically, this portable gauging device was last known to have been used by you on March 25, 2004, and was subsequently recovered by the police on April 15, 2004, in an apartment you formerly occupied in Bladensburg, Maryland. Based on the OI investigation, we concluded that as a result of your deliberate actions, we lack adequate assurance that you can be relied upon to comply with NRC requirements.

On May 11, 2005, we sent you a letter offering you the opportunity to discuss the NRC findings at a predecisional enforcement conference. That letter was sent to your last known address. The letter was returned to us as undeliverable on June 1, 2005. Nevertheless, given the evidence and the deliberate nature of the violation, we have a sufficient basis to proceed with appropriate enforcement action.

Your deliberate actions effectively abandoned NRC licensed material in the public domain, thus jeopardizing members of the public and exposing them to an unnecessary risk. The NRC views these deliberate actions seriously. Accordingly, the NRC is issuing the enclosed Order prohibiting your involvement in NRC-licensed activities for a period of five years. Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject the person to civil monetary penalty.

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In our May 11, 2005, letter to you, we indicated that you were in apparent violation of 10 CFR 30.10 (a), Deliberate Misconduct, because you caused PITS to be in violation of 10 CFR 20.1802 and Condition 16 of their license for failing to secure, control or maintain constant surveillance of the Troxler Model 3430 moisture/density gauge. We have since determined that PITS did not violate any NRC requirements because you acted independently and deliberately in taking possession of licensed material without NRC or Licensee authorization. Therefore, as stated in the attached letter to them on this date, we have determined that you did not violate 10 CFR 30.10. Rather, as noted in the Order, you violated 10 CFR 30.3 when you deliberately took possession of byproduct material without a specific or general license issued by the NRC or an Agreement State, and you left it unattended in an apartment in Bladensburg, Maryland.

Questions concerning this Order may be addressed to James Luehman, Deputy Director, Office of Enforcement. Mr. Luehman can be reached at telephone number (301) 415-2741.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Sincerely,

/RA/

Martin J. Virgilio
Deputy Executive Director
for Materials, Research, State
and Compliance Programs

Enclosures:

1. Order Prohibiting Involvement in NRC-Licensed Activities
2. Letter to Professional Inspection and Testing Services, Inc.

cc w/enclosure:

Rose McNew, President
Professional Inspection and Testing Services, Inc.

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| OFFICE | RI/ORA | | DNMS/RI | | DNMS/RI | | RI/ORA | | RI/ORA | |
| NAME | JWray | | JKinneman | | GPangburn | | DHolody | | KFarrar | |
| DATE | 6/27/05* | | 6/27/05* | | 6/30/05* | | 7/01/05* | | 6/30/05* | |
| OFFICE | RI/OI | | RI/ORA | | NMSS | | OGC-NLO | | OE | |
| NAME | EWilson | | SCollins | | G. Morell for JStrosnider | | TSmith* | | CNolan | |
| DATE | 7/01/05* | | 7/01/05* | | 7/ 21 /05 | | 7/26/05* | | 7/27/05 | |
| OFFICE | OE | | OE | | DD EDO | | | | | |
| NAME | JLuehman | | MJohnson | | MVirgilio | | | | | |
| DATE | 7/26/05 | | 7/28/05 | | 8/02/05 | | | | | |

*See Previous concurrence

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

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IA-05-031

Stanley Pitts

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ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Stanley Pitts (Mr. Pitts) was formerly employed as a fully qualified technician and authorized nuclear gauge operator by Professional Inspection and Testing Services, Inc. (Licensee) of Chambersburg, Pennsylvania. Professional Inspection and Testing Services, Inc., holds License No. 37-28744-01 issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 30 on August 4, 1999. The license authorized the possession and use of cesium-137 and americium-241 sealed sources to be used in portable gauging devices in accordance with the conditions specified therein.

On April 7, 2004, the Licensee reported to the NRC that a Troxler Model 3430 moisture/density gauge (Serial No. 75-5183) containing 9 mCi of cesium-137 and 44 mCi of americium-241 (NRC-licensed radioactive material) was unaccounted for and considered stolen by an employee/authorized user, (namely, Mr. Pitts) who was performing work at a temporary job site in Prince George's County, Maryland. This nuclear gauge, along with other licensee property, was last known to have been used by Mr. Pitts on March 25, 2004. The gauge was recovered in Bladensburg, Maryland by police on April 15, 2004, in an apartment formerly occupied by Mr. Pitts. Neither the licensee nor the police were able to locate Mr. Pitts and an arrest warrant was issued regarding the theft of company property that belonged to Professional Inspection and Testing Services, Inc. As of the date of this Order, Mr. Pitts remains a fugitive with an outstanding arrest warrant.

The NRC Office of Investigations (OI) conducted an investigation into the reported loss of the nuclear gauge. OI Report No. 1-2004-027 was issued on February 9, 2005. Information developed during that investigation verified that Mr. Pitts was authorized by the Licensee to use their licensed moisture/density gauges until April 2, 2004, when his employment was terminated by the Licensee. Based on the evidence developed during the investigation, the NRC concluded that Mr. Pitts possessed the nuclear gauge for a period of approximately 13 days after April 2, 2004, when he was no longer employed by the Licensee and was not authorized by the Licensee nor licensed by the NRC as required under 10 CFR Part 30. Additionally, Mr. Pitts did not maintain control of the nuclear gauge resulting in the loss of NRC licensed radioactive material in the public domain for approximately twenty-one days.

III

Based on the above, the NRC concludes that Mr. Pitts, a former employee of the Licensee, deliberately violated 10 CFR 30.3 when he apparently had stolen and illegally possessed the portable gauging device containing licensed radioactive material that belonged to Professional Inspection and Testing Services, Inc. 10 CFR 30.3 requires that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license. The NRC must be able to rely on its licensees, and employees of licensees, to comply with NRC requirements, including the requirement that licensed material cannot be acquired, possessed or transferred without a specific or general license. The deliberate violation of 10 CFR 30.3 by Mr. Pitts, as discussed above, has raised serious doubt as to whether he can be relied upon to comply with NRC requirements in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Pitts were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Pitts be prohibited from any involvement in NRC-licensed activities for a period of five (5) years from the date of this Order. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Pitts's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Stanley Pitts is prohibited for five (5) years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. If Mr. Pitts is currently involved in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.
3. Subsequent to expiration of the five year prohibition, Mr. Stanley Pitts shall, for the next five years and within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Stanley Pitts shall include a statement of his commitment to compliance with regulatory requirements and the basis why the

Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Pitts of good cause.

V

In accordance with 10 CFR 2.202, Stanley Pitts must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Pitts or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, and to Mr. Pitts if the answer or hearing request

is by a person other than Mr. Pitts. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than Mr. Pitts requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR § 2.309.

If a hearing is requested by Mr. Pitts or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(I), Mr. Pitts, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a

hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio
Deputy Executive Director
for Materials, Research, State
and Compliance Programs

Dated this 2nd day of August, 2005