



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
2100 RENAISSANCE BLVD.
KING OF PRUSSIA, PA 19406-2713**

July 28, 2016

IA-16-040

Mr. Martin Ferenc
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2016-002)

Dear Mr. Ferenc:

This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement decision for the apparent violation identified during an investigation of Applied Technical Services, Inc. (ATS) activities at the National Aeronautics and Space Administration (NASA) Langley Research Center in Hampton, Virginia. The investigation was conducted, in part, to evaluate whether you deliberately failed to follow NRC regulations and ATS procedures while conducting work at NASA.

Based on the results of the investigation, the NRC determined that you committed an apparent violation of Title 10 of the Code of Federal Regulations (CFR) Part 30.10, "Deliberate Misconduct." Specifically, on October 20, 2015, while conducting industrial radiography at NASA, you did not conspicuously post the area where industrial radiography was being performed with radiation area or high radiation area signs to establish a radiological boundary as required by 10 CFR 34.53 and 10 CFR 20.1902.

In a letter dated May 20, 2016 (ML16141B067),¹ the NRC described the apparent violation to you and informed you that the NRC was considering escalated enforcement action against you. In the letter, we offered you the opportunity to address the apparent violation by either attending a pre-decisional enforcement conference (PEC), to engage the NRC in an alternative dispute resolution (ADR) mediation session, or to provide a written response before we made our final enforcement decision. In a telephone conversation on June 14, 2016, with Cherie Crisden, Allegations and Enforcement Specialist, you indicated that you accepted the violation as characterized in the May 20, 2016, letter.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

¹ Designation in parentheses refers to an Agency-wide Documents Access and Management System (ADAMS) accession number. Unless otherwise noted, documents referenced in this letter are publicly-available using the accession number in ADAMS.

Based on the information developed during the investigation, the NRC determined that three violations of NRC requirements occurred. Specifically, your actions caused ATS to be in violation of 10 CFR 34.49, 10 CFR 34.53, and 10 CFR 150.20(b)(5). In addition, as discussed above, the NRC concluded that you deliberately did not conspicuously post the area where industrial radiography was being performed as required by 10 CFR 34.53 and 10 CFR 20.1902. Therefore, the NRC has categorized the violations by ATS in accordance with the NRC Enforcement Policy at Severity Level III (SL III). A copy of the letter and Notice of Violation issued to ATS is enclosed for your information.

Your deliberate actions with regards to the violation described above placed you in violation of 10 CFR 30.10, "Deliberate Misconduct." Given the significance of the underlying issue and the deliberate nature of your actions, your individual violation has been categorized in accordance with the NRC Enforcement Policy at SL III, and is set forth in the enclosed Notice of Violation (Notice). You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action.

You are required to respond to this letter and should follow the instructions in the enclosed Notice when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. ADR is a general term encompassing various techniques for resolving conflicts using a neutral third party. The technique that the NRC employs is mediation. Mediation is a voluntary, informal process in which a trained neutral (the "mediator") works with parties to help them reach resolution. If the parties agree to use ADR, they select a mutually agreeable neutral mediator who has no stake in the outcome and no power to make decisions. Mediation gives parties an opportunity to discuss issues, clear up misunderstandings, be creative, find areas of agreement, and reach a final resolution of the issues. Additional information on the NRC's ADR program can be found at: <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as a neutral third party. If you are interested in pursuing this issue through the ADR program, please contact: (1) the ICR at (877) 733-9415; and (2) Blake Welling, Commercial, Industrial, R&D, and Academic Branch at 610-337-5205 within **10** days of the date of this letter. You may also contact both ICR and Mr. Welling for additional information.

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

response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being considered for, or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

The NRC also includes significant enforcement actions on its Web site at (<http://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>).

Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Enclosures: As stated

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Sincerely,

/RA/

Daniel H. Dorman
Regional Administrator

Enclosures: As stated

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X SUNSI Review/CJC*		X Non-Sensitive □ Sensitive			X Publicly Available □ Non-Publicly Available	
OFFICE	RI/ORA	RI/ORA	RI/DNMS	RI/ORA	RI/ ORA	OE
NAME	C Crisden/cjc*	N Warnek/nsw via email*	B Welling/bdw*	B Klukan/bmk via email*	B Bickett/bab via email*	R Fretz via email*
DATE	7/14/16	7/18/16	7/14/16	7/18/16	7/21/16	7/26/16
OFFICE	NMSS	OGC	DNMS			RA
NAME	M Burgess via email*	M Simon via email*	J Trapp			D Dorman
DATE	7/18/16	7/20/16	7/27/16			7/27/16

OFFICIAL RECORD COPY

Letter to M. Ferenc from Daniel H. Dorman dated July 28, 2016

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Enforcement Coordinators

RII, RIII, RIV (DGamberoni; RSkokowski; MHay)

JMartin, OGC

RIDSOGCMailCenter

HHarrington, OPA

RIDSOPAMailCenter

HBell, OIG

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JTrapp, DNMS, RI

R1DNMSMAILRESOURCE

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Region I OE Files (with concurrences)

NOTICE OF VIOLATION

Martin Ferenc
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-16-040

During an NRC inspection conducted on October 20, 2015, and November 23-24, 2015, with continued in-office review through April 22, 2016, and during an NRC investigation conducted between October 30, 2015, and February 2, 2016, a violation of NRC requirements was identified.

10 CFR 30.10(a) states, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule, regulation, or order.

10 CFR 30.10(c) states, in part, that deliberate misconduct means an intentional act or omission that a person knows would cause a licensee to be in violation of any rule, regulation, or order.

10 CFR 34.53 states that all areas in which industrial radiography is being performed must be conspicuously posted as required by 10 CFR 20.1902(a) and (b).

10 CFR 20.1902(a) requires licensees to post radiation areas with conspicuous signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."

10 CFR 20.1902(b) requires licensees to post high radiation areas with conspicuous signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."

Contrary to the above, on October 20, 2015, while working as a radiographer for Applied Technical Services, Inc. (ATS), you engaged in deliberate misconduct that caused the licensee to be in violation of an NRC regulation. Specifically, while conducting industrial radiography at a temporary job site at the National Aeronautics and Space Administration (NASA) Langley Research Center in Hampton, Virginia, you intentionally did not conspicuously post the area where industrial radiography was being performed with radiation area or high radiation area signs to establish a radiological boundary. Your actions caused ATS to be in violation of 10 CFR 34.53, which requires that all areas in which industrial radiography is being performed must be conspicuously posted as required by 10 CFR 20.1902(a) and (b).

This is a Severity Level III violation (Enforcement Policy Section 6.3).

Pursuant to the provisions of 10 CFR 2.201, Mr. Martin Ferenc is hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Blvd., Suite 100, King of Prussia, PA, 19406, and marked "Open by Addressee Only," within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to Notice of Violation; IA-16-040" and should include the following for the violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring

information as to why other action should not be taken. Where good cause is shown, consideration will be given to extending the response time. 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, DC 20555-0001.

Your response will be made available electronically for public inspection in the NRC Public Document Room and in the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

This letter will also be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, Enforcement Actions Against Individuals. This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 28th day of July 2016