



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

May 16, 2002

EA-01-006

Mr. Rich Michau
Wackenhut Nuclear Services
4200 Wackenhut Drive
Palm Beach Gardens, Florida 33410

**SUBJECT: RESPONSE TO DENIAL OF VIOLATION
 (NRC Investigation Report 4-1999-068)**

Dear Mr. Michau:

This refers to your letter dated January 23, 2002, in response to the Notice of Violation sent to The Wackenhut Corporation (TWC) by our letter dated May 14, 2001. Our letter and Notice of Violation described a violation of NRC requirements identified during an NRC investigation. The violation involved discrimination against a security officer and training instructor at the Callaway Nuclear Plant for having engaged in protected activity.

You denied this violation in your January 23 letter, and requested that the Notice of Violation issued to TWC be withdrawn. The NRC has reviewed the information you provided to support your request, and we are not persuaded by your arguments to withdraw the violation. We have concluded that the violation occurred as stated in the Notice; the security officer and the training instructor engaged in protected activity, each was subjected to adverse action, and the adverse action occurred, at least in part, because of the protected activity.

TWC's January 23, 2002 letter provided no new information, failed to demonstrate that its decision to terminate the security officer for lack of integrity was reasonable, and otherwise failed to rebut the violation. In particular, TWC did not rebut that discriminatory animus is evidenced by having conducted a biased investigation: (1) TWC investigated the integrity of the security officer but did not make a good faith attempt to investigate the integrity of the officer trainee (the temporary watchman), whom the security officer exposed as misrepresenting his qualifications, despite the implausibility of the officer trainee's claims that he believed he had graduated; and (2) The investigation concluded that the security officer misrepresented herself to the principal and thus lacks integrity based on mere assumptions that the security officer was not credible but that the Administrative Assistant, the principal and the officer trainee all were credible. TWC also presumed that the security officer knew in August 1999 that the officer trainee lacked a diploma and withheld that information until October 1999, and thus lacks integrity. There would have been no purpose, however, in the security officer's having contacted the high school if she had already known that the officer trainee lacked a diploma.

In your January 23, 2002 letter, you also described the corrective actions you have taken to address TWC's hiring process and TWC's programs for ensuring that employees can raise concerns without fear of retaliation. We have no further questions about your corrective actions at this time, but we emphasize that maintaining an environment in which employees feel free to raise safety or compliance concerns requires constant reinforcement, monitoring and vigilance. This is especially important when your operations are being carried out at many facilities remote from your corporate office. The opportunity for your remotely-located employees to lose sight of your corporate goals is always present.

If you have any questions about this matter, please contact Barry Westreich, Office of Enforcement, at 301-415-3456.

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

Sincerely,

/RA/

Frank Congel
Director, Office of Enforcement

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cc: Garry L. Randolph, Senior Vice
President and Chief Nuclear Officer
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