



UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF INVESTIGATIONS FIELD OFFICE, REGION III
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October 30, 2002

MEMORANDUM TO: James E. Dyer, Regional Administrator
Region III

FROM: Richard C. Paul, Director *Richard C. Paul*
Office of Investigations Field Office
Region III

SUBJECT: DRESDEN NUCLEAR POWER PLANT:
DISCRIMINATION AGAINST A PRINCIPAL
AUDITOR FOR VENDOR AUDIT FINDINGS AND
DISCRIMINATION BY BLACKLISTING A FORMER
PRINCIPAL AUDITOR FOR RAISING SAFETY
CONCERNS (OI CASE NO. 3-2001-055)

Attached, for whatever action you deem appropriate, is the Office of Investigations (OI) Report of Investigation concerning the above matter.

This report is forwarded to the action office for information purposes. Since the action office has the responsibility for advising alleged of the status and disposition of allegations, they are authorized upon receipt of the Report of Investigation to advise the alleged that the investigation has been completed. After the NRC and/or other concerned Federal agencies have taken whatever action they deem appropriate, the action office will notify the alleged that his/her allegations were either substantiated, partially substantiated, or not substantiated and may, if required, furnish the alleged with a copy of the OI Report of Investigation after appropriate proprietary, privacy, and confidential source information has been deleted. Any additional information provided the alleged will be dispositioned through the Director, OI, and will be furnished on a case-by-case basis.

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J. Dyer

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Title: DRESDEN NUCLEAR POWER PLANT:

DISCRIMINATION AGAINST A PRINCIPAL AUDITOR FOR VENDOR AUDIT FINDINGS AND DISCRIMINATION BY BLACKLISTING A FORMER PRINCIPAL AUDITOR FOR RAISING SAFETY CONCERNS

Licensee:

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Docket No.: 50-237

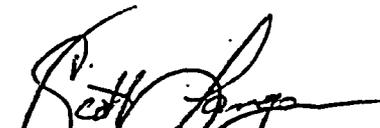
Case No.: 3-2001-055

Report Date: September 30, 2002

Control Office: OI:RIII

Status: CLOSED

Reported by:



**Scott J. Langan, Special Agent
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Field Office, Region III**

Reviewed and Approved by:



**Richard C. Paul, Director
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Field Office, Region III**

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SYNOPSIS

This investigation was initiated by the U.S. Nuclear Regulatory Commission, Office of Investigations (OI), Region III, on November 19, 2001, to determine whether a Principal Auditor for Exelon Corporation (Exelon) was discriminated against for raising safety concerns in the form of vendor audit findings.

On May 20, 2002, a second allegation was added to the investigation. OI initiated an investigation to determine whether a former Principal Auditor was blacklisted from gaining employment at Sargent & Lundy (S&L) because of safety concerns raised while employed at Exelon.

Based on the evidence developed, the investigation did not substantiate the allegation that a Principal Auditor was discriminated against for raising safety concerns.

Based on the evidence developed, the investigation did not substantiate the allegation that a former Principal Auditor was blacklisted from gaining employment at S&L because of safety concerns raised while employed at Exelon.

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Case No. 3-2001-055

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LIST OF INTERVIEWEES

	<u>Exhibit</u>
[REDACTED]	36
[REDACTED]	37
[REDACTED]	35
[REDACTED]	38
[REDACTED]	29, 39
SHIRANI, Oscar, Former Principal Auditor, Exelon	2
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Case No. 3-2001-055

DETAILS OF INVESTIGATION

Applicable Regulations

10 CFR 50.5 Deliberate Misconduct (2001 Edition) (OI Violations Nos. 1 and 2)
10 CFR 50.7 Employee Protection (2001 Edition) (OI Violations Nos. 1 and 2)

Purpose of Investigation

This investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region III (RIII), on November 19, 2001, to determine whether Oscar SHIRANI, a Principal Auditor for Exelon Corporation (Exelon), was discriminated against for raising safety concerns in the form of vendor audit findings.

On May 20, 2002, a second allegation was added to the investigation. OI initiated an investigation to determine whether SHIRANI was blacklisted from gaining employment at Sargent & Lundy (S&L) because of safety concerns raised while employed at Exelon.

Background (Exhibit 1)

On November 1, 2001, SHIRANI met with NRC:RIII officials Bruce JORGENSEN and James HELLER. SHIRANI stated he had just had his Exelon access pulled to all Exelon buildings and facilities and would be terminated in December of 2001. SHIRANI explained that his employment problems began in 1997 when he was the team leader for an audit of analytical services provided to Exelon by General Electric Nuclear (GENE). SHIRANI said that his audit resulted in about a dozen significant findings that resulted in a "stop work" being issued to GENE. SHIRANI recalled that at the [REDACTED] disagreed with the audit findings and argued with SHIRANI. According to SHIRANI, as a result of the audit, SHIRANI wrote a significant finding against the engineering departments for LaSalle, Dresden, and Quad Cities.

According to SHIRANI, [REDACTED] SHIRANI said that shortly after [REDACTED] started working for ComEd, [REDACTED] to discuss SHIRANI's performance during the GENE audit. SHIRANI said that [REDACTED] that he did not agree with SHIRANI's findings or how SHIRANI had presented himself during the GENE audit. According to SHIRANI, after this conversation his performance appraisal ratings started to decline. SHIRANI said that his declining performance ratings prompted him to leave the group in 2001.

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Agent's Note: ComEd and Philadelphia Electric Corporation (PECO) merged in 2000, forming Exelon.

According to SHIRANI, in December 2000 he completed an audit of US Tool & Die (UST), a contractor to the vendor for the Dresden dry cask storage project group (DSQG) to fabricate casks. SHIRANI said [REDACTED] him to the audit. SHIRANI recalled that the audit had been requested by Joe RICCO, DSQG Manager, because of continuing problems with UST. SHIRANI said the audit identified several significant findings that were eventually discussed during a meeting in early 2001 between Exelon, utility representatives and the vendor. SHIRANI said that the NRC was at the meeting.

Agent's Note: References to a DSQG, Holtec, or UST audit are actually references to the same audit, not different audits.

According to SHIRANI, before the audit, he was looking for a job within the Exelon organization because of his declining performance ratings that he felt were [REDACTED]. SHIRANI said that a recent change to the Exelon Quality Assurance (QA) plan moved the Exelon Supplier Evaluation Services (SES) group [REDACTED]. SHIRANI said he [REDACTED]. SHIRANI said that [REDACTED] had a vested interest to resolve the DSQG audit quickly.

SHIRANI said that he subsequently was offered a job as principal auditor in the Finance group [REDACTED]. SHIRANI said that [REDACTED]. According to SHIRANI, he was eventually [REDACTED]. SHIRANI said that he discussed his GENE and DSQG audits [REDACTED]. SHIRANI remembered being called by Ross LANDSMAN, NRC:RIII, regarding the DSQG audit findings and his transfer to finance. SHIRANI said he [REDACTED] per company policy.

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SHIRANI said that shortly after this incident, his job description was changed to one that required him to be a Certified Public Accountant (CPA), which SHIRANI was not. SHIRANI claimed he was offered another lower paying job.

On November 19, 2001, an Allegation Review Board (ARB) requested OI initiate an investigation to determine if SHIRANI was discriminated against in violation of 10 CFR 50.5 and 50.7.

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On May 20, 2002, a second allegation was added to the investigation. OI initiated an investigation to determine whether SHIRANI was blacklisted from gaining employment at S&L because of safety concerns raised while employed at Exelon.

Interview of Alleger (Exhibit 2)

On December 18, 2001, OI interviewed SHIRANI. SHIRANI provided substantially the following information:

SHIRANI stated that he earned a bachelor of science degree from the West Virginia Institute of Technology, now known as West Virginia University, in [REDACTED] SHIRANI said he earned a Master's degree in civil structure engineering from George Washington University in 1980. SHIRANI stated that he worked as a structural engineer for Stone & Webster Engineering Corporation (Stone & Webster) at different nuclear power plants, for approximately 10 years after earning his Master's degree. Following his employment at Stone & Webster, SHIRANI worked a few months as a structural analyst in Westinghouse's nuclear business. SHIRANI said he then went to ComEd as a structural engineer/technical specialist in ComEd's nuclear program. He said he worked for 4 years as a structural engineer before moving to the QA Department. He stated that he worked for 6 years in the QA Department, Nuclear Oversight, SES group as an Auditor, conducting audits and technical engineering assessments. SHIRANI stated that he has worked in the nuclear industry for over 20 years (Exhibit 2, pp. 5-10). 7c

SHIRANI stated that he served as the lead auditor during the audit of GENE in 1997. According to SHIRANI, the audit team came up with twelve findings against GENE, which resulted in a stop work order being issued against GENE. He said he shared the audit team's findings with [REDACTED] SHIRANI recalled that [REDACTED] got very upset, and almost wanted to leave the exit meeting, accusing SHIRANI of being "very inflexible and tough and did not want to negotiate those findings." SHIRANI claimed that he (SHIRANI) acted professionally during the exit meeting. SHIRANI said he used his stop work authority, with concurrence from Ed NETZEL, QA Department Manager, and Lon WALDINGER, Nuclear Oversight Manager. According to SHIRANI, he continued to follow-up on the stop work order for approximately 2 years following the GENE audit findings (Exhibit 2, pp. 9-15; Exhibit 9, pp. 1-5).

SHIRANI said the stop work order against GENE was lifted in November of 1997. According to SHIRANI, [REDACTED] SHIRANI acknowledged that he was [REDACTED] SHIRANI stated that [REDACTED] WALDINGER and NETZEL left the company. He stated he was unaware how WALDINGER left the company, but knew that NETZEL left on early retirement. SHIRANI said [REDACTED] He said [REDACTED] NETZEL for a few months prior to NETZEL's departure. SHIRANI 7c

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said his duties under NETZEL did not change when [REDACTED] although the SES group was transferred to the Production Department. SHIRANI stated that [REDACTED] (Exhibit 2, pp. 17, 19-23, 128).

SHIRANI said [REDACTED] had only a high school degree and did not understand the meaning of safety concerns in the design area. According to SHIRANI, on several occasions he felt intimidated, pressured, and harassed by [REDACTED]. SHIRANI defined pressured or harassed as [REDACTED] "...preaching, like an evangelist...to be very careful to be a team player with the suppliers....be very cooperative with the suppliers and making sure that we do everything based on the cost." SHIRANI contended that [REDACTED] was more like a manager of production, rather than being [REDACTED]. SHIRANI said that [REDACTED] told NETZEL that SHIRANI deserved a good rating because he raised the GENE issues (Exhibit 2, pp. 24-26).

SHIRANI said he sent an e-mail in February of 1999, approximately eighteen months after the GENE audit, to the ComEd executives and Boiling Water Reactor Vice Presidents, reminding them that ComEd had an obligation to the NRC to resolve the outstanding issues from the GENE audit. He said he was greeted one morning by the GENE liaison to ComEd, and told by the liaison that he would get a chance to go back to GENE, but that he needed to give GENE more time. SHIRANI recalled that he responded by stating "I am under pressure from my managers here. After the GE audit, instead of supporting me, I feel like they are pressuring me to leave...is that possible that you talked to [REDACTED] that I need to talk to him, to discuss some of these issues, some of this pressure?" According to SHIRANI, the GENE liaison stated "Oscar, you know, once these findings are closed, you are going to have a better opportunity to talk to [REDACTED]" SHIRANI said that is how the conversation was left (Exhibit 2, pp. 27-29). 70

SHIRANI said he confronted [REDACTED], stating [REDACTED] and they have perception that you still don't like me from that GE audit." SHIRANI recalled [REDACTED] stating "Oscar, I don't have anything against you..." SHIRANI stated that on a separate occasion, he met with Oliver KINGSLEY to discuss fellow employee's issues, as well as to discuss his concern involving [REDACTED]. SHIRANI recalled KINGSLEY stating "Oscar, I talked to [REDACTED] six months ago to see if he has any grudges against you...He [REDACTED] told me that he doesn't have anything against you" (Exhibit 2, pp. 76-78).

SHIRANI said he returned from an audit in Boston, prior to going to GENE to conduct the follow-up audit in April or May of 1999, when [REDACTED] told him "Oscar, we--you know, I'm really nervous. [REDACTED] is very nervous. Remember, we have obligations to our family. Try to work with the vendors. Try to make sure that...I'm not telling you don't raise issues, you know, but I'm telling you we got to know what's best for ComEd, and you know, you know, your obligations." SHIRANI said [REDACTED] statements were an indirect hint to be 70

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careful this time at GENE. SHIRANI stated that while he was conducting the follow-up audit, he called and gave updates to [REDACTED] every day. SHIRANI acknowledged that GENE improved and had satisfied him. SHIRANI recalled [REDACTED] boasting about SHIRANI's findings in a report, calling the audit a "wake up call for GE." According to SHIRANI, he returned from the GENE follow-up audit and continued performing audits of vendors, such as S&L, Bechtel Jacobs, and GENE (Exhibit 2, pp. 31-33).

SHIRANI recalled that in July of 2000, he was asked to serve as the lead auditor on the Nuclear Users Procurement Issues Committee (NUPIC) team that conducted an audit of Holtec International (Holtec) and UST's DSQG project. SHIRANI said Holtec and UST were his vendors. SHIRANI said he wrote in the Holtec/UST audit summary that the NRC inspection, which occurred six months prior to his audit, did not come up with any issues, nor did a NUPIC audit conducted in approximately 1999. However, SHIRANI said his audit did come up with nine findings against Holtec. He said he shared his findings with LANDSMAN during a symposium hosted by Holtec on November 30, 2000, which also included representatives from approximately 20 utilities and the NRC. SHIRANI said LANDSMAN requested a copy of his audit report. SHIRANI stated that he informed [REDACTED] of LANDSMAN's request, which is when [REDACTED] questioned why SHIRANI was at the symposium. SHIRANI said he reminded [REDACTED] to be the dry cask quality person, to which [REDACTED] responded "Okay. You need to talk to licensing." SHIRANI recalled talking with Ken AINGER, Manager of Licensing, when AINGER said "What were you doing over there? How did you share the information with the NRC?" SHIRANI stated that he responded to AINGER by stating "...We had to share. I don't think that is to our best interest to hide these things from the NRC." According to SHIRANI, AINGER responded by stating "You know, I don't trust NRC compliments because they come and compliment you, but they are going to go after Holtec and they are going to go after U.S. Tool & Die. And what's going to happen? Who is going to lose?" (Exhibit 2, pp. 34-38). 7c

SHIRANI stated that LANDSMAN called him two or three days later, asking if SHIRANI had sent the audit report. SHIRANI said he told LANDSMAN that licensing would be sending him the audit report. He stated that on January 19, 2001, LANDSMAN called him and discussed SHIRANI's audit report of Holtec. SHIRANI said ComEd was afraid of any exposure to the NRC (Exhibit 2, pp. 38-40, 81).

SHIRANI said the company gave him the opportunity to apply for the manager position during the merger process. He said he had four positions that he could nominate himself for, and that the company said he could ask his supervisor to, and his supervisor should, nominate him for two other positions. SHIRANI said [REDACTED] did not nominate him for the two additional positions. SHIRANI said he followed up with [REDACTED] asking him why he did not nominate him for the positions, to which [REDACTED] did not respond. According to SHIRANI, he then had a closed 7c

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door conversation with [REDACTED] in which he told [REDACTED] "I know. If you think I'm blind that I don't know why all this pressure on me, it's because you want to serve your bosses." SHIRANI acknowledged that he was referring to his work on the GENE and Holtec/UST audits (Exhibit 2, pp. 42-45).

SHIRANI recalled discussing the situation with [REDACTED]. He said [REDACTED] advised him to report the incident to nuclear Human Resources (HR) and see what they were going to do about it. SHIRANI acknowledged that he followed [REDACTED] advice and met with Stephanie HICKMAN, title unknown, of HR, on four or five different occasions. He acknowledged that he told [REDACTED] that he was meeting with HR. He said each meeting with HICKMAN lasted two to three hours. SHIRANI said he provided documents regarding the harassment and pressure he had received. According to SHIRANI, HICKMAN documented everything, but did nothing in response to his concerns. SHIRANI recalled having another argument with [REDACTED] after he had gone to HR, in which [REDACTED] told SHIRANI "If you think that I harassed you and put pressure on you, and you went to HR and complain about me, how come I never were (sic) reprimanded or noticed by HR that my actions are inappropriate?" SHIRANI stated that [REDACTED] told him "I don't think my behavior is inappropriate. If it was inappropriate and you went and complained to HR, they should have at least reprimand (sic) me or give me some notice that I should stop harassing you. I am not harassing you." SHIRANI said he and [REDACTED] had arguments at different times in the year (Exhibit 2, pp. 42-45).

SHIRANI stated that two weeks after the NRC became aware of his audit findings (November 30, 2000) against Holtec, he received a job offer as a principle auditor, with a 6.2 to 7 percent pay raise, via telephone, less than two weeks later from [REDACTED]. SHIRANI said the 6.2 to 7 percent increase equated to approximately \$7,000.00. He said [REDACTED] in Exelon group [REDACTED]. SHIRANI said he had a good relationship with [REDACTED] for almost a year prior to receiving [REDACTED] call. He stated that he had asked [REDACTED] He said they had several [REDACTED]. SHIRANI acknowledged that [REDACTED] knew about the issues he raised regarding [REDACTED] and the GENE audit. SHIRANI said he told [REDACTED] that he had already interviewed for the diversity manager position in nuclear. He stated that [REDACTED] reminded SHIRANI that he was already "on a hot seat" in nuclear, and that SHIRANI had asked [REDACTED] a couple of months ago. SHIRANI recalled that he responded to [REDACTED] "maybe you are right. I got to leave all that pressure behind me, look for some other things in the company." SHIRANI said he told [REDACTED] that he needed to think about [REDACTED] so he did not accept [REDACTED] right away. He said [REDACTED] called him a couple of days later, whereupon he advised [REDACTED] that he was still deciding whether to take the manager position in nuclear [REDACTED]. SHIRANI said they discussed [REDACTED] and then [REDACTED] advised SHIRANI to call LANDY, Vice President of HR, and turn down the diversity manager position. According to SHIRANI, he interviewed with HICKMAN and

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Mark RELCON, title unknown, from the PECO side, and they were nominating him for the position. SHIRANI stated that all he had left to do was go and sign the paper with LANDY, accepting the job. SHIRANI said he called HICKMAN to turn down the diversity manager position. He said he accepted the principle auditor, Level E4, position [REDACTED] (Exhibit 2, pp. 40-42, 45-47).

SHIRANI recalled a conversation he had with an individual from HR, named Mario (Last Name Unknown). According to SHIRANI, Mario told him that he was demoted when Exelon converted from the numeric pay levels to the roman numeral pay levels. SHIRANI said he went from a Level 9 to an E3 while in nuclear. SHIRANI said he confronted [REDACTED] about why he was not an E4, which meant more pay and benefits to him, and [REDACTED] responded that [REDACTED] gave him a salary increase when he came to work for [REDACTED] SHIRANI recalled [REDACTED] telling him that [REDACTED] did not know why he was demoted while working in nuclear (Exhibit 2, pp. 105-107).

SHIRANI said he received an e-mail on December 20, 2000, from John ROWE, Chief Executive Officer (CEO) of Exelon, congratulating SHIRANI on his new position. SHIRANI stated that he exchanged e-mails with ROWE, not realizing at the time, that his move to the financial audit group was part of a conspiracy against him (Exhibit 2, pp. 47-49).

SHIRANI recalled a discussion he had with [REDACTED] in regards to his qualifications. SHIRANI said he informed [REDACTED] of the safety concerns he raised in the GENE and Holtec/UST audits. According to SHIRANI, [REDACTED] mentioned a concern regarding [REDACTED] ability to afford SHIRANI's salary when [REDACTED] had to hire 30 people with only \$3.4 million dollars. SHIRANI said that [REDACTED] told him that [REDACTED] knew of his reputation in nuclear and with NUPIC, but that he was still going to start from zero with [REDACTED] and prove himself [REDACTED] SHIRANI also recalled a separate conversation he had with [REDACTED] where [REDACTED] assured him that with his talent and credentials he would have an opportunity to be a director or vice president of the company. SHIRANI said that he was the only person in the new group because the group still was not even formed yet, Arthur Andersen was actually performing the work. He said [REDACTED] told him that he would be reporting to Arthur Andersen [REDACTED] SHIRANI thought he would be managing Arthur Andersen, which was the company actually performing the audits. According to SHIRANI, he was reporting to George HERTZ, Director of Internal Audit, who retired in March of 2001. SHIRANI said he also reported to Tim MAKRAS, Senior Manager, at Arthur Andersen. SHIRANI recalled [REDACTED] MAKRAS and HERTZ to give SHIRANI a broad picture, not too deep, of the audit process. SHIRANI said he was skeptical of [REDACTED] message. SHIRANI recalled a situation in which he was supposed to lead an audit of the Exelon travel and entertainment records for the officers and board of directors. According to SHIRANI, as soon as he started preparing for the audit, he was removed as the lead auditor. SHIRANI said he was told he would receive training from Arthur Andersen, but never did.

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SHIRANI said he was given reports that Arthur Andersen wrote in previous years, so that he could familiarize himself with the internal audit process (Exhibit 2, pp. 49-54, 60-61, 107).

SHIRANI described the audits performed by the Internal Audit group as more than 90 percent process and management audits, which he correlated to his experience conducting NUPIC audits that involved reviewing management processes, procedures, etc. SHIRANI stated "So I was not a rookie." SHIRANI said he reminded [redacted] that he needed training, but [redacted] kept postponing his requests (Exhibit 2, pp. 52-53).

SHIRANI said he was put on an energy delivery audit, which was a project management audit. SHIRANI stated that he had project management experience. According to SHIRANI, Arthur Andersen noted that he highlighted issues that they would never find. SHIRANI said that throughout the year, Arthur Andersen was very happy with SHIRANI and the issues he found (Exhibit 2, pp. 57-58).

SHIRANI recalled two separate incidents with [redacted] discussed SHIRANI's financial experience, salary, and the fact that his current position required 8 to 15 years of financial background, and based on his qualifications, he may need to step down to a lower level. SHIRANI said the other incident involved [redacted] making a remark against Asians. SHIRANI said he met with [redacted] to discuss those concerns. SHIRANI recalled that during the discussion [redacted] apologized for any misunderstanding that SHIRANI had from [redacted] remarks about the Asian students. According to SHIRANI, he was representing Asian Americans as their president during this meeting. SHIRANI said [redacted] for his American Society of Mechanical Engineers (ASME) conference fees, which [redacted] did not. SHIRANI said he raised these issues to [redacted] attention. SHIRANI said he and [redacted] exchanged e-mails after the meeting. SHIRANI recalled that [redacted] sent SHIRANI an e-mail assuring SHIRANI that [redacted] did not have a problem with SHIRANI, and was complimentary to SHIRANI for being a nice guy who always asked about [redacted] SHIRANI said he reported [redacted] and [redacted] remarks to the ethics office (Exhibit 2, pp. 54-59, 62). 2

According to SHIRANI, three months after their meeting [redacted] sent an e-mail to SHIRANI and about five auditors in the Philadelphia office informing them that they had to reapply for their jobs. SHIRANI said [redacted] told him that [redacted] had done a market analysis, and now level E4 was considered to be a principle/manager auditor. SHIRANI recalled Martha GARZA, Director of HR to Finance, Assir DASILVA, who was either the Vice President or Senior Vice President of Diversity, and Eliecer PALACIO, Director of the Ethics office, encouraged SHIRANI to apply for his position or he would lose his job. SHIRANI said DASILVA and PALACIO were aware of his safety concerns. According to SHIRANI, DASILVA talked about the e-mail SHIRANI had sent to KINGSLEY, Chief Nuclear Officer, requesting to be placed in the diversity manager position that he passed up for the principle auditor position. SHIRANI said he sent the e-mail 7c

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shortly after his meeting with [REDACTED] SHIRANI said he was looking for a position in nuclear QA or the engineering programs. He said KINGSLEY forwarded his e-mail to the director of HR, who responded to SHIRANI's e-mail. SHIRANI recalled the e-mail stating that the diversity manager position was already filled, and that the group he was in while at nuclear had shrunk from eleven people to seven people. SHIRANI said he called Kevin YESSIAN, Vice President of the Exelon Nuclear Supply organization, [REDACTED] and asked for a job. He said YESSIAN told him that his organization was reducing the number of employees and had no positions for SHIRANI. SHIRANI said at that point in his conversation with YESSIAN, SHIRANI told YESSIAN that he (SHIRANI) should have gone to the NRC once they (ComEd) were suspicious about it. SHIRANI told YESSIAN that he never wanted to be a whistle blower, and that he thought the company was planning to get rid of him. SHIRANI said there have been job openings since he left to go to audit. SHIRANI stated that he told DASILVA and PALACIO that he would reapply for his job, because he understood that if he didn't reapply, he would lose his job (Exhibit 2, pp. 59-65).

Agent's Note: SHIRANI did not state, nor did he acknowledge that he reapplied for the position that he was currently performing. Instead, SHIRANI actually reapplied to the principle/manager position, which had a higher level of qualification requirements than the senior auditor position. In addition, SHIRANI sent the e-mail to KINGSLEY in either June or July of 2001.

SHIRANI said that he was interviewed for the principal/manager position, level E4 [REDACTED] SHIRANI stated that [REDACTED] told him on October 26, 2001, that he did not get the position, but that he would remain with the company for 60 days so that he could apply for other positions. According to SHIRANI, on October 30, 2001, he sent an e-mail to ROWE, Co-CEO of Exelon, Corbin MacNEAL, Co-CEO of Exelon, Exelon's Vice-Presidents, DASILVA, PALACIO, Pam STROBLE, who is in charge of Energy Delivery, and the AACES members describing what he did for the company and the fact that he was laid off. SHIRANI recalled that [REDACTED] and GARZA called him to an office within five minutes of him sending the e-mail. He said they told him he needed to leave and asked for the company properties, computer badge, and other items that were assigned to him. SHIRANI stated that they told him he could access job openings through the contractors that help severed employees in that regard (Exhibit 2, pp. 65-68).

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According to SHIRANI, during his conversation with [REDACTED] and GARZA, he commented that [REDACTED] held resentments against Hispanics and retaliated against SHIRANI because he brought up diversity issues to [REDACTED] SHIRANI said [REDACTED] then called security. He said security watched him pack his boxes. He stated that the next morning, he called and e-mailed the secretary to tell her that he was coming to pick up his boxes. SHIRANI said that in his e-mail, he warned the secretary that she was a [REDACTED] and should watch her back with [REDACTED] because [REDACTED] was a fake. He recalled requesting, in his e-mail to the secretary, that she not share the

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e-mail and delete it right away. According to SHIRANI, as soon as he came in through the rotating doors of the building, two security guards requested that he leave the building. SHIRANI recalled saying that with his dark hair and being [REDACTED] they probably thought they caught a terrorist. SHIRANI stated that he was offended. SHIRANI said he subsequently went outside. SHIRANI recalled that the secretary brought down his boxes, whereupon the secretary passed along a message from [REDACTED], warning SHIRANI to quit harassing [REDACTED] and the other officers of the company. SHIRANI told the secretary to inform [REDACTED] that ComEd probably needs to hire 1,000 additional lawyers because [REDACTED] cannot treat [REDACTED] like dirt. SHIRANI also told the secretary to tell [REDACTED] that he would not settle with the company until [REDACTED] resigns (Exhibit 2, pp. 68-73, 94-95). 7c

In response to the question "What was the official reason given for your termination?", SHIRANI stated that he was told that he was not qualified for the manager position. SHIRANI felt that [REDACTED] wanted to get rid of him because he went to the NRC and kept bringing up issues to ComEd licensing (Exhibit 2, pp. 79, 108). 7c

According to SHIRANI, during the 60 day time period following his dismissal, he had become aware of job openings. SHIRANI said he received a letter from ComEd's lawyers advising SHIRANI that he could not contact any employees or managers of the company, except those people in charge of nuclear safety concerns, because he had made disparaging remarks and would be dismissed for cause. He said that even if he applied for a job, he knew he wouldn't get it. SHIRANI said his troubles began when [REDACTED]. SHIRANI stated that [REDACTED]. SHIRANI said [REDACTED] in his matter was to serve ROWE, KINGSLEY, and [REDACTED] (Exhibit 2, pp. 73-76). 7c

Agent's Note: [REDACTED] SHIRANI to Internal Audit.

SHIRANI said prior to [REDACTED] his performance rating in nuclear oversight was 1A, which was Highly Effective Behavior-Outstanding. He said his ratings in 1998, 1999, and 2000 were reduced to 1B. SHIRANI stated that during his first performance rating meeting [REDACTED] he was rated at a 1A level. According to SHIRANI, once his performance rating [REDACTED] his rating was reduced to 1B. SHIRANI recalled that when he questioned [REDACTED] told SHIRANI that he had to walk on water to deserve a 1A rating. SHIRANI said [REDACTED] also cited SHIRANI's trip to Germany, whereupon SHIRANI spent \$1,800.00 dollars even though his budget was only \$1,300.00 (Exhibit 2, pp. 83-86, 103).

Agent's Note: "1B" is Effective Behavior-Excellent.

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SHIRANI said everybody in Exelon knew about his issues with [REDACTED] even S&L knew of the issues. He said he had a conversation with [REDACTED] on July 22, 1998, during which [REDACTED] told him "He [REDACTED] says he did not agree with the way I handled myself (SHIRANI) at the GE." SHIRANI described a conversation he had with Walter HAHN, title unknown, in which HAHN described a conversation he witnessed between [REDACTED] and JOYCE during a meeting in 1999. According to SHIRANI, HAHN told him the conversation was in regards to SHIRANI's performance rating. SHIRANI said HAHN recalled [REDACTED] telling JOYCE that he [REDACTED] had to give SHIRANI a better rating because he was [REDACTED] best performer. According to SHIRANI, HAHN said JOYCE's response to [REDACTED] was [REDACTED] do you think [REDACTED] is going to let you?" SHIRANI denied that he had any direct proof of [REDACTED] involvement in his transfer to Internal Audit. SHIRANI cited HAHN's story as the only indirect involvement of [REDACTED] (Exhibit 2, pp. 75, 85-86, 88). 7c

Agent's Note: At no time during his OI interview did SHIRANI state that [REDACTED] was present during the meeting [REDACTED] allegedly described to SHIRANI. SHIRANI did not quote [REDACTED] being present during the meeting. 7c

SHIRANI said none of the 18 positions in the Chicago Internal Audit group have been filled (Exhibit 2, pp. 86-87).

SHIRANI said he was offered a severance package of [REDACTED] SHIRANI said he was not going to accept it. According to SHIRANI, you are usually laid off because they have to reduce excess staff or because of poor performance. SHIRANI stated that everything was marked as "on target" on his last mid-year review. SHIRANI recalled that a comment that was written on the bottom of his review was "Oscar works very diligent in his work." SHIRANI surmised that since they were not reducing the size of the group, and because his mid-year review was on target, the only reasons for his removal were political and safety concern related. SHIRANI said it related to his 1997 GENE and 2000 UST audits (Exhibit 2, pp. 86-88). 7c

According to SHIRANI, on November 8, 2001, he met with [REDACTED] SHIRANI recalled [REDACTED] telling him [REDACTED] and I know you are making more than that at ComEd." SHIRANI reminded [REDACTED] that he (SHIRANI) had a very good rapport with S&L. According to SHIRANI, [REDACTED] responded "Oscar, I'm not dispute. I know you deserve more than that." SHIRANI believed this was a verbal job offer. SHIRANI said he was making [REDACTED] this year at Exelon, whereas [REDACTED] SHIRANI told [REDACTED] that he was not rejecting the job offer, but was exploring opportunity. 7c

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According to SHIRANI, [redacted] told him that he would look at his budget for 2002 and call him (SHIRANI) during the Thanksgiving holidays to firm up the offer. SHIRANI said he received a letter from S&L's HR department two days later, advising SHIRANI that S&L did not have any openings in their QA department (Exhibit 2, pp. 96-100).

SHIRANI stated that Myra BURGESS, Manager of the Chemistry section at Exelon, asked him "Would you like to consider a manager or director position working for me?" SHIRANI told BURGESS that he was always looking for opportunity. He said she told him to contact her secretary to set up a meeting. According to SHIRANI, on the day of his meeting with BURGESS, BURGESS told him "I'm sorry, Oscar, that I raise your hopes. My manager disagrees with my decision." SHIRANI said [redacted] SHIRANI said the reasons she gave him was that she could not support his appointment and that she had to run it by her managers (Exhibit 2, pp. 102-103). 7c

Coordination with NRC Staff

On November 19, 2001, an ARB requested that OI initiate an investigation to determine whether Exelon management deliberately discriminated against SHIRANI for raising safety concerns, in violation of 10 CFR 50.7 and 50.5 (Exhibit 4).

On May 20, 2002, an ARB requested that OI initiate an investigation to determine whether S&L blacklisted SHIRANI from gaining employment as a result of the safety concerns SHIRANI raised while employed by Exelon, in violation of 10 CFR 50.7 (Exhibit 5).

Coordination with the Regional Counsel

This investigation was initiated with the concurrence of the NRC:RIII Regional Counsel, Bruce BERSON, who advised that [redacted] 5

On January 7, 2002, BERSON was furnished a copy of SHIRANI's transcript for review to determine [redacted] On January 29, 2002, BERSON indicated that after reviewing SHIRANI's transcript [redacted] (Exhibit 3).

Review of Documentation

The following documents were obtained and reviewed in relation to this case.

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Report of Telephonic Contact between Special Agent (SA) Langan and SHIRANI, dated May 3, 2002. SHIRANI stated that he was blacklisted from getting a job at S&L, by S&L. SHIRANI believed that Karaman Consultants, Incorporated (KCI) and Engineering Management Specialist (EMS) did not participate in a scheme to blacklist him from gaining employment (Exhibit 6).

Written statement from SHIRANI, dated May 3, 2002. SHIRANI stated that he had a paid job at KCI, working 15 hours a week (Exhibit 7).

E-mail from SHIRANI to Jim HELLER, NRC:RIII Staff, dated May 14, 2002. SHIRANI provided information on three managers from S&L that allegedly asked about SHIRANI during a meeting with ALSAMMARAE (nfi), of KCI (Exhibit 8).

A package of documents titled "Prepared by Oscar B. Shirani for USNRC on December 3, 2001," with attachments, provided by SHIRANI to the NRC. The documents restated information that was originally provided by SHIRANI during his OI interview (Exhibit 9).

EICS document, titled Alleger Visit, undated. The document restated blacklisting information that was originally provided by SHIRANI during his OI interview (Exhibit 10).

SHIRANI's Charge of Discrimination, as filed with the Equal Employment Opportunity Commission (EEOC), charge number 210A20477, dated November 5, 2001. SHIRANI claimed that he was fired because he frequently complained about Exelon's unjust treatment toward Asian employees (Exhibit 11).

Letter from Alice BURKE, Assistant General Counsel for Labor and Employment, Exelon, dated December 21, 2001. BURKE stated that there is no basis for SHIRANI's EEOC complaint and that the company's decision not to place SHIRANI in the Internal Audit manager position was for legitimate business reasons (Exhibit 12).

EEOC Dismissal and Notice of Rights, dated January 31, 2002. The EEOC dismissed SHIRANI's EEOC complaint because "...Based upon the Commission's investigation, the Commission is unable to conclude that the information obtained establishes violations of the statutes..." (Exhibit 13).

E-mail from SHIRANI to HELLER, with attachment, dated April 24, 2002. SHIRANI restated information that was originally provided by SHIRANI during his OI interview (Exhibit 14).

E-mail from SALEHI (nfi) to HELLER, dated March 16, 2002; Letter, sent via e-mail, from SALEHI to Bruce JORGENSEN, NRC:RIII Branch Chief, Division of Reactor Projects, thru

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HELLER, dated December 29, 2001. SALEHI alleged that [REDACTED] retaliated against SHIRANI and himself for raising safety concerns during the GENE audit in 1997 (Exhibit 15). 7c

Letter from Gary J. ANDERSON, Area Director, U.S. Department of Labor/Occupational Safety and Health Administration (DOL/OSHA), to Robert HELFRICH, General Counsel for Exelon, dated February 11, 2002. Attached was a copy of SHIRANI's statement to DOL/OSHA, dated February 1, 2002. ANDERSON stated that SHIRANI filed a complaint with OSHA, alleging discriminatory employment practices in violation of Section 211 of the Energy Reorganization Act of 1974, 42 U.S.C. 5851. SHIRANI's statement restated information originally provided by SHIRANI during his OI interview (Exhibit 16).

E-mail correspondence from SHIRANI to Jim HELLER, NRC:RIII Staff, dated March 28, 2002, with a letter from SHIRANI to Roy REES, DOL/OSHA, dated March 27, 2002. SHIRANI provided additional information to OSHA regarding his blacklisting issue (Exhibit 17).

Exelon's response to SHIRANI's DOL/OSHA complaint, as prepared by Scott E. GROSS, Attorney for Sidley, Austin, Brown and Wood, dated February 19, 2002. GROSS stated that during the reorganization process of the Internal Audit department, SHIRANI refused to even be considered for the auditor position, of which [REDACTED] would have placed him had he applied. According to GROSS, SHIRANI acknowledged that he lacked the professional accreditation, the supervisory experience, and the financial accounting experience that were requirements of the manager position, but he applied anyway. GROSS stated that SHIRANI was terminated because he was not placed in the manager position and had not applied for the auditor position. GROSS denied that SHIRANI was terminated because he raised safety concerns (Exhibit 18). 7c

Copies of performance ratings for the following Exelon employees: Performance Year 2000: SHIRANI (unsigned), rated 2B (Effective Behavior/Achieves Results-Meets); Performance Year 1999: SHIRANI, rated 1B (Effective Behavior/Exceeds Results-Excellent) 7c

(Exhibit 19).

Internal Resume, SHIRANI, generated on December 19, 2001. The internal resume identified SHIRANI's performance ratings as "B" ratings for 2001 and 2000. SHIRANI received two performance ratings for 1999, March 29, 1999, "B" rating, January 11, 1999, Meets All Expectations. SHIRANI's rating for 1997 was Excellent, 1996 Meets All Expectations, 1995

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Meets All Expectations (+). SHIRANI's salary grade from January 1, 2001, to December 29, 2001, was level E4 (Exhibit 20).

Exelon Selection/Compensation Action (Revised) for SHIRANI, effective date January 1, 2001. The document stated that SHIRANI received a promotion to the principle auditor, Salary Grade level IV, from an E3. SHIRANI's salary increase was 8.19% or [REDACTED] (Exhibit 21). 7c

Exelon Career Opportunity System, Attachment 7.1 - Self-Nomination Form, Attachment 7.2 - Resume Template, SHIRANI's resume, and the Management Career Opportunity Application submitted by SHIRANI for the principal/manager, Audit, Salary Grade E4 position, dated October 16, 2001. [REDACTED] SHIRANI's application package to be submitted to the Exelon Employee Service Center (Exhibit 22).

Exelon Nuclear Job Description - Management Position, Supplier Evaluation Lead in Exelon Nuclear, description date May 16, 2000; Candidate Summary for SHIRANI, signed by Tony BROCCOLO, dated July 21, 2000; a copy of SHIRANI's resume; Candidate Summary for SHIRANI; John HELLER's, Title Unknown, notes from his interview of SHIRANI. Both candidate summaries indicated that SHIRANI needed development in building relationships, organizational agility, and managing conflict (Exhibit 23).

GARZA's notes regarding a meeting on October 30, 2001, she had with [REDACTED] and SHIRANI. GARZA stated that SHIRANI was informed that effective immediately, he will transition his remaining projects so that he can focus his full attention to working with the outplacement firm. GARZA said SHIRANI became agitated and accused [REDACTED] and GARZA of wanting him out of the building because they thought he was a [REDACTED]. GARZA stated that when [REDACTED] left the room to get security, SHIRANI told her that they were in the diversity fight together and that [REDACTED] should stop acting like "them" (Exhibit 24). 7c

Severance Package letter from Christopher LUIS, Severance Plan Administrator, to SHIRANI, dated October 26, 2001; SHIRANI's Personalized Statement of Separation Plan Benefits. The business reason provided in the letter was that SHIRANI was being terminated because he had not been placed in the new organization. The letter stated the services being made available to SHIRANI. The Personalized Statement of Separation Plan Benefits stated that SHIRANI's severance pay amount was [REDACTED] with other benefits and services being made available to SHIRANI (Exhibit 25).

SHIRANI's Candidate Assessment forms for the manager, Internal Audit position, October 22, 2001; Exelon Performance Planning & Appraisal, mid-year performance review for SHIRANI, dated July 17, 2001; E-mail from Darren ZURAWSKI, title unknown, to [REDACTED] dated [REDACTED]

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October 16, 2001; SHIRANI's Performance Evaluation-Professional Audit Staff, end date October 11, 2001; SHIRANI's Performance Evaluation-Professional Audit Staff, end date August 17, 2001. SHIRANI was rated as "On Track" (Exhibit 26).

Various Meeting Notes made by PALACIO regarding SHIRANI and his issues. The notes restated information that was originally provided by SHIRANI during his OI interview (Exhibit 27).

GARZA's notes from a telephone conversation between GARZA and SHIRANI, dated October 11, 2001. GARZA stated that SHIRANI expressed concern about not meeting the required criteria for the manager position level E4. GARZA noted that SHIRANI did not indicate an interest in applying for any other positions (Exhibit 28).

Exelon Internal Audit Services document showing [redacted] anticipated organization chart for the Internal Audit group; Letter from HELFRICH, dated April 16, 2002. The letter and organization chart identify the locations of the manager and senior auditor positions in the new organization. HELFRICH stated that SHIRANI applied for the manager position, but did not apply for the senior auditor position (Exhibit 30). 7C

Various e-mails involving SHIRANI, for the time period of August 9, 2001 to October 30, 2001. In an e-mail sent by SHIRANI on October 30, 2001, SHIRANI said he was originally brought into Internal Audit as an E4, [redacted] modified the position requirements and he was not qualified for the new position. SHIRANI stated that he did not apply for the E3 graded position in Internal Audit because his salary was at the maximum level of E3 and he would have gone above the salary band for E3 (Exhibit 31). 7C

Letter from SHIRANI to [redacted] dated November 26, 2001; Letter from P.J. MEEHAN, Manager of HR for S&L, dated November 28, 2001; Letter from MEEHAN to [redacted], dated November 27, 2001; Letter from SHIRANI to Paul WATELET, Senior Partner at S&L, dated January 14, 2002; Larry JACQUES, Partner at S&L, notes of a telephone conversation he had with SHIRANI on December 14, 2001. SHIRANI's letter, dated November 26, 2001, stated that [redacted] verbal offer would be negotiable and that he looked forward to receiving a written offer confirming the verbal offer. MEEHAN's letter, dated November 28, 2001, stated that all hiring decisions at S&L go through the HR division. MEEHAN stated that no offer of employment was made to SHIRANI. JACQUES noted that SHIRANI made a verbal threat to him in regards to NRC regulations that protect individuals who raise safety concerns and that SHIRANI wanted to remain a "good friend" to S&L (Exhibit 32). 7C

Agent's Note: The notes, dated December 14, 2001, are of a telephone conversation between SHIRANI and an unnamed party. Based on SHIRANI's statements during his

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OI interview, and in his letter to WATELET, OI determined that the notes were most likely made by JACQUES (Exhibit 2, pp. 95-101; Exhibit 32, pp. 4-6).

Letter, with attachments, from HELFRICH, dated June 14, 2002. The attachments identified numerous internal quality control issues identified by GENE prior to, and during SHIRANI's 1997 GENE audit (Exhibit 33).

Review of the DOL Report

On June 3, 2002, DOL/OSHA sent a letter to GROSS, notifying Exelon that based on the evidence gathered during the DOL/OSHA investigation into SHIRANI's discrimination allegation against Exelon for raising safety concerns, DOL/OSHA determined that "That the evidence did not support your (SHIRANI) position that you were terminated due to raising safety & health issues to management or the NRC" (Exhibit 34).

Agent's Note: The DOL/OSHA Final Investigative Report had yet to be received by OI during the preparation of this report.

OI Violation No. 1: Discrimination Against a Principal Auditor For Vendor Audit Findings

Evidence

1. Protected Activity

SHIRANI stated that he served as the lead auditor during the audit of GENE. According to SHIRANI, the audit team came up with twelve findings against GENE, which resulted in a stop work order being issued against GENE (Exhibit 2, pp. 10-15).

SHIRANI recalled that in July of 2000, he served as the lead auditor on the NUPIC team that conducted an audit of the Holtec/UST DSQG project. SHIRANI wrote in the Holtec/UST audit summary that the NRC inspection, which occurred six months prior to his audit, did not come up with any issues, nor did a NUPIC audit conducted in approximately 1999. SHIRANI said his audit came up with nine findings against Holtec, which he shared with LANDSMAN, NRC:RIII, during a symposium hosted by Holtec on November 30, 2000. He said the symposium also included representatives from approximately 20 utilities and the NRC (Exhibit 2, pp. 34-38; Exhibit 10, p. 4).

2. Knowledge of SHIRANI's Protected Activity

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[REDACTED] acknowledged that they were aware of SHIRANI conducting an audit of

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GENE in 1997, and the subsequent issuing of a stop work order (Exhibit 36, pp. 19-21; Exhibit 38, pp. 11-25).

[REDACTED] recalled that SHIRANI worked on the DSQG audit and had findings of different significance levels. [REDACTED] did not recall SHIRANI working on DSQG audit (Exhibit 36, pp. 57-58; Exhibit 38, pp. 32-33).

[REDACTED] recalled SHIRANI telling [REDACTED] about an audit he did while working in nuclear, whereupon both Exelon management and the vendor disagreed with his findings. [REDACTED] did not recall SHIRANI mentioning any audit he conducted on the DSQG or Holtec (Exhibit 37, pp. 8, 11).

[REDACTED] did not recall SHIRANI raising any safety issues in regards to Exelon. [REDACTED] acknowledged that SHIRANI mentioned his role in the 1997 GENE audits in the context of his displeasure of not being promoted to a manager position. [REDACTED] recalled SHIRANI mentioning what [REDACTED] termed safety issues in "broadbrush terms" of a safety subset. [REDACTED] said [REDACTED] was uncertain whether those issues were really safety issues or compliance issues. [REDACTED] said [REDACTED] was under the impression the issues were more compliance related, not necessarily safety related (Exhibit 35, pp. 13-14, 19-20, 30). 7C

[REDACTED] recalled SHIRANI mentioning, to impress upon [REDACTED] the intensity of his work on DSQG and the realm of SHIRANI's audit capabilities in general. [REDACTED] was unclear as to what type of concerns SHIRANI had raised. [REDACTED] stated that [REDACTED] was not aware that there was even an issue with dry cask storage. [REDACTED] said [REDACTED] was not familiar with UST in relation to SHIRANI. [REDACTED] acknowledged that SHIRANI did not mention to [REDACTED] any specific safety issues from his work on the GENE and DSQG audits (Exhibit 35, pp. 26-30).

3. Unfavorable Action Taken Against SHIRANI

SHIRANI said that he was interviewed for the manager position in Internal Audit [REDACTED]. SHIRANI stated that [REDACTED] told him on October 26, 2001, that he did not get the position and [REDACTED] provided him a package of documents which advised him that he was being severed from the company (Exhibit 2, pp. 66, 94-95). 7C

According to SHIRANI, Mario (Last Name Unknown) told him that he was demoted when Exelon converted from the numeric pay levels to the roman numeral pay levels (Exhibit 2, pp. 105-107).

SHIRANI said prior to [REDACTED] his performance ratings in Nuclear Oversight were 1A, which is outstanding. He said his ratings in 1998, 1999, and 2000 were reduced to 1B. SHIRANI stated that during his first performance rating meeting [REDACTED] he was rated at

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a 1A level. According to SHIRANI, once his performance rating [REDACTED] his rating was reduced to 1B (Exhibit 2, pp. 83-86, 103).

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SHIRANI said the company gave him the opportunity to apply for a manager position during the merger process. He said he had four positions that he could nominate himself for, and that the company said he could ask his supervisor to, and his supervisor should, nominate him for two other positions. SHIRANI said [REDACTED] did not nominate him for the two additional positions (Exhibit 2, p. 42).

4. Did the Unfavorable Action Result from SHIRANI Engaging in a Protected Activity

[REDACTED] acknowledged that they understood 10 CFR 50.5 and 10 CFR 50.7, which addressed the issue of discriminating against an employee for raising safety concerns (Exhibit 36, pp. 12-13; Exhibit 38, pp. 7-8).

[REDACTED] stated that [REDACTED] did not work in the nuclear organization, nor did [REDACTED] receive training in 10 CFR 50.5 and 50.7. [REDACTED] said [REDACTED] had training regarding sexual harassment and potential discriminatory issues that come up during interviews. [REDACTED] denied receiving training in 10 CFR 50.5 and 50.7 (Exhibit 35, pp. 7-8, 112; Exhibit 37, pp. 7-8).

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[REDACTED] described SHIRANI's attitude and demeanor during his (SHIRANI's) audit of GENE as one of the most blatant displays of arrogance, narrow-minded, stubborn, pig-headed behaviors that he had ever seen in a professional environment. [REDACTED] said the items SHIRANI-raised at the exit meeting were nothing of any content, the issue was one of context. [REDACTED] said he already knew GENE had problems with quality prior to SHIRANI's audit. [REDACTED] on the issue of quality problems and making improvements. [REDACTED] with quality, procedure processes, and compliance. [REDACTED] stated that it was a very exhaustive and extensive program. [REDACTED] recalled that they were four to five months into the program when SHIRANI conducted his audit. [REDACTED] thought SHIRANI's audit identified a narrow documentation issue, a paperwork issue. [REDACTED] said SHIRANI refused to look at their (GENE) documentation. [REDACTED] denied losing his temper or yelling at SHIRANI during the exit meeting. [REDACTED] recalled that he has never, in his career, experienced behaviors like SHIRANI's. [REDACTED] said he spoke with WALDINGER about how SHIRANI conducted the audit and [REDACTED] that was implemented to improve GENE's quality. He said that he and WALDINGER recognized that WALDINGER had a behavior challenge in SHIRANI. [REDACTED] said he and WALDINGER worked together to resolve the issues from the audit. [REDACTED] stated that the stop work order was subsequently lifted. According to [REDACTED] was receiving accolades within three months of it's implementation from ComEd's QA department and other components of ComEd. [REDACTED] said

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the accolades were for the program's improvements to quality (Exhibit 33; Exhibit 38, pp. 11-26).

[REDACTED] denied forcing WALDINGER or NETZEL out of the company because of their support of SHIRANI. [REDACTED] was unaware of whether NETZEL had left the company (Exhibit 38, pp. 24-26).

According to [REDACTED] he intentionally sought out SHIRANI to discuss his (SHIRANI's) behavior during the GENE audit. [REDACTED] said he told SHIRANI that he did not have any problems with the issues identified by SHIRANI, but that he thought there were more effective ways that SHIRANI could have handled the situation. [REDACTED] stated that he offered his assistance to SHIRANI in helping him find ways to handle interactions more effectively in the future. [REDACTED] recalled SHIRANI reacting very positively to his comments. [REDACTED] considered SHIRANI's response as a little bit of an acknowledgment that perhaps he (SHIRANI) could have handled the audit more smoothly. [REDACTED] said he pointed out to [REDACTED] to monitor SHIRANI's performance because [REDACTED] felt that SHIRANI's performance at the GENE audit was not very effective. [REDACTED] said he informed KINGSLEY that he had a "clearing-the-air discussion" with SHIRANI (Exhibit 38, pp. 27-29, 37-39). 7c

[REDACTED] said that when the SES function was part of the Nuclear QA organization, SHIRANI 7c

[REDACTED] stated that the SES group subsequently was moved from the QA organization to the Supply organization. [REDACTED] said SHIRANI was then under [REDACTED] SHIRANI would have worked in that branch. [REDACTED] said SHIRANI was at least two steps removed from [REDACTED] [REDACTED] denied speaking with BURGESS about SHIRANI getting the diversity manager position in nuclear. [REDACTED] denied influencing in any fashion, especially in a negative manner, SHIRANI getting the diversity manager position. [REDACTED] denied being aware that SHIRANI was the lead candidate for the diversity manager position. [REDACTED] said he could not imagine BURGESS having any connection to the diversity manager position because she was the manager of the Chemistry section. [REDACTED] acknowledged that BURGESS, in her role in the area of the Chemistry section, did not have the authority to offer the anyone the diversity manager position. [REDACTED] acknowledged that he did not have any input into the SES manager interviews, nor was he aware that SHIRANI had applied for the position. [REDACTED] denied that he negatively influenced or instructed anyone against SHIRANI getting the SES manager position. [REDACTED] denied speaking with BROCCOLO regarding SHIRANI and the SES manager position. [REDACTED] to transfer SHIRANI to the Internal Audit group. [REDACTED] stated that he was unaware that SHIRANI had even transferred to Internal 7c

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Audit [redacted] acknowledged that he was unaware of SHIRANI being demoted. [redacted] denied being aware of SHIRANI having to reapply for his position in Internal Audit. [redacted] denied speaking with HERTZ and MAKRAS regarding SHIRANI. [redacted] denied speaking to HICKMAN about SHIRANI and/or the diversity manager position (Exhibit 38, pp. 39-42, 44-50).

[redacted] (Exhibit 38, p. 48). 7c

[redacted] SHIRANI's job performance for 1998, 1999, and 2000. [redacted] SHIRANI as one of [redacted] in [redacted] for each of those years. [redacted] for 1998, 1999, and 2000, however, SHIRANI would not know that because an employee's performance ratings are not shared with the other employees. [redacted]

[redacted] SHIRANI's job performance were never changed. [redacted] stated that SHIRANI felt that if he was not rated at the top rating level, he felt he was not being treated fairly. [redacted] acknowledged that SHIRANI reacted that way with each of his performance ratings. [redacted] said that he did not believe SHIRANI deserved the highest rating because of the quality of SHIRANI's written work product. [redacted] having any input regarding SHIRANI's performance rating. [redacted] acknowledged that there was no spot on SHIRANI's performance evaluations for [redacted] to sign off (Exhibit 36, pp. 18-19, 21-27, 29-31).

[redacted] said he was unaware of SHIRANI's performance ratings. [redacted] was not a signatory on SHIRANI's performance ratings. [redacted] denied instructing [redacted] that he wanted either of them to lower SHIRANI's performance ratings. [redacted] denied instructing anyone to lower SHIRANI's performance ratings. [redacted] said he was unaware of SHIRANI's performance ratings being lowered. HELFRICH's letter stated that SHIRANI's performance ratings were not downgraded (Exhibit 30, p. 2; Exhibit 38, pp. 41-44). 7c

[redacted] believed that during the merger process, employees could put in for jobs using the company's web page. [redacted] understood that nuclear was not using the web page, however, they (referring to management) were not stopping employees from applying for jobs that they were interested in that were outside of nuclear. [redacted] acknowledged that during the merger process, he asked employees what they would be interested in doing, including SHIRANI. According to [redacted] 7c

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he recalled SHIRANI expressing an interest in positions inside and outside of nuclear, one such position was the position that was occupied by [REDACTED] that SHIRANI wanted [REDACTED] recalled SHIRANI telling him that he interviewed for [REDACTED] believed that he responded to SHIRANI's e-mail requesting nomination for different jobs, by sending an e-mail to SHIRANI advising him that he was out of the office when SHIRANI sent the e-mail and that nuclear was not using the web page system. [REDACTED] recalled SHIRANI coming to his office later agitated and telling [REDACTED] that he was not doing what was required of him [REDACTED] he was out of compliance for not using the web page system [REDACTED] recalled that SHIRANI felt he should have been a vice-president of Exelon and was not being treated fairly. According to [REDACTED] SHIRANI said he brought his concerns to HR and KINGSLEY. [REDACTED] recalled that SHIRANI was not happy with HR's response to his issues. [REDACTED] said he told SHIRANI that he understood he was frustrated, but that he [REDACTED] was not directed to use the system and had done nothing wrong. [REDACTED] said he was worried about SHIRANI's agitated state and sent an e-mail to HR asking what he could do for SHIRANI. [REDACTED] said he subsequently provided an [REDACTED] to SHIRANI. [REDACTED] acknowledged that he was unaware of whether SHIRANI used the [REDACTED] or not (Exhibit 36, pp. 32-40).

[REDACTED] recalled that after the merger, SHIRANI accused him of being a racist because he kept SHIRANI in his group as an auditor so that he [REDACTED] could be successful through SHIRANI. [REDACTED] one outside person. [REDACTED] stated that he responded to SHIRANI by telling him that he was a good auditor that had abilities that [REDACTED] did not. [REDACTED] acknowledged that SHIRANI was an integral part [REDACTED] stated that he responded to SHIRANI's comment about him being a racist by telling SHIRANI that he took personal offense to his comment and that he had never treated SHIRANI other than professionally and fairly. [REDACTED] recalled that he also asked SHIRANI to leave his office. [REDACTED] said SHIRANI did not leave his office, but did apologize later for his comment. [REDACTED] said SHIRANI felt the whole company was racist against him personally. [REDACTED] acknowledged that SHIRANI did not provide any proof for his accusation. [REDACTED] denied that anyone came to him requesting that SHIRANI work for him. [REDACTED] stated that SHIRANI came to him and asked if [REDACTED] could get him a separation package around time the merger concluded, in the August/October of 2000, time frame. [REDACTED] acknowledged that in his dealings with SHIRANI, outside of being accused of being a racist, SHIRANI did not state that he was being poorly or wrongly treated because he had raised safety issues (Exhibit 36, pp. 41-48, 87).

[REDACTED] denied being pressured to quickly resolve the DSQG audit. [REDACTED] did not recall [REDACTED] telling him that he disagreed with the way SHIRANI handled himself at the GENE audit. [REDACTED] denied telling SHIRANI, in July of 1998, that [REDACTED] has not forgotten

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about you. He still seems angry almost after a year, almost one year after the GE audit?" [redacted] said that the [redacted] has not forgotten about you...." statement sounded more like something SHIRANI would say. According to [redacted] he did tell SHIRANI that he would probably outlast [redacted] [redacted] said he made that statement to SHIRANI because SHIRANI was "...always, always very worried about [redacted] [redacted] developed this conclusion based on SHIRANI's statements that [redacted] was upset with him from the GENE audit. [redacted] said he had no indication that SHIRANI's worries regarding [redacted] being upset with him were true (Exhibit 36, pp. 70-72).

[redacted] recalled SHIRANI approaching him for career advise and counsel. [redacted] said SHIRANI asked [redacted] if he would be supportive of SHIRANI applying for other positions. [redacted] said he indicated to SHIRANI that he would be supportive. [redacted] denied that SHIRANI told him that he (SHIRANI) had been treated negatively or was harassed by management. [redacted] did not recall receiving any e-mails from SHIRANI regarding any negative or harassing treatment by management (Exhibit 38, pp. 37-38). 7c

[redacted] stated that SHIRANI believed [redacted] was influencing the direction of his career after he was in nuclear. [redacted] acknowledged that SHIRANI did not provide any proof for his statements, only opinion. [redacted] did not believe SHIRANI had direct interaction with [redacted] while he [redacted] was at GENE. [redacted] said [redacted] asked SHIRANI if [redacted] even knew who he was. [redacted] did not recall SHIRANI saying "yes", however, based on SHIRANI's response to [redacted] question [redacted] though [redacted] did not even know who SHIRANI was as a person. [redacted] did not recall SHIRANI informing [redacted] of any comments that [redacted] made to him (SHIRANI). According to [redacted] SHIRANI never spoke to [redacted] about [redacted] specific treatment toward SHIRANI. [redacted] recalled SHIRANI believing that [redacted] was nonetheless an obstacle to him getting a manager position because [redacted] got in trouble as a result of SHIRANI's audit (Exhibit 35, pp. 20-24, 37-40; Exhibit 37, pp. 9, 12). 7c

[redacted] did not recall having any conversations with [redacted] regarding SHIRANI. [redacted] denied ever hearing anyone, other than SHIRANI, state that [redacted] was upset or angry with SHIRANI. [redacted] didn't recall SHIRANI ever describing his relationship with [redacted] to [redacted] (Exhibit 35, p. 37; Exhibit 37, pp. 9-11). 7c

[redacted] stated that feedback [redacted] received from Arthur Anderson and [redacted] indicated to [redacted] that SHIRANI had a difficult time understanding his roles and responsibilities while in Internal Audit. [redacted] said Duane DESPARTE, Partner at Arthur Andersen, brought to [redacted] attention that SHIRANI did not interact well with an audit client. [redacted] said DESPARTE related to [redacted] that SHIRANI told the audit client what they did wrong, what and how they would fix it, and was overbearing with the audit client. [redacted] recalled MAKRAS telling [redacted] of a separate incident involving SHIRANI, during which he conducted himself in a similar fashion as

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DESPARTE had described. [redacted] stated that Internal Audit does not interact with audit clients that way [redacted] described SHIRANI as an individual who liked to be in control. According to [redacted] SHIRANI would take "kernals" of AACES concerns and use them to promote issues important to him, with the possibility of him getting a promotion or better job out of it. [redacted] SHIRANI regarding his practice of taking AACES issues beyond members' intentions (Exhibit 35, pp. 42-49). 7C

[redacted] acknowledged that Exelon made a decision to rebuild the Internal Audit function. According to [redacted] Exelon had approximately five employees in Philadelphia, and an outsourced function performed by Arthur Andersen. [redacted] stated SHIRANI was the first Exelon auditor hired during the rebuilding of the Internal Audit function in the Chicago office (Exhibit 35, pp. 43-44).

[redacted] believed SHIRANI showed [redacted] tremendous amount of disrespect. [redacted] said during 2000, SHIRANI was displeased when [redacted] stated that SHIRANI was insulted that his [redacted] speculated that SHIRANI may have felt the value of his position detracted because he was [redacted] (Exhibit 35, pp. 51-52).

[redacted] said SHIRANI was very unhappy and disappointed with nuclear because he was still an individual contributor and not a manager yet, which was a consistent theme of SHIRANI. [redacted] said in December of 2000, SHIRANI asked [redacted] for a position in [redacted]. According to [redacted] reminded SHIRANI that the merger and post merger placement of people process had just about been completed. [redacted] said the jobs that remained unfilled were positions heavy in finance duties. [redacted] said [redacted] told SHIRANI that he did not have a finance background and was not a finance person. [redacted] 7C

[redacted] said Internal Audit would be comprised of 27 people. [redacted] said SHIRANI felt very strongly about making the transition [redacted] and [redacted] acknowledged that [redacted] SHIRANI the position of principal auditor, which was an individual contributor. [redacted] SHIRANI a supervisory position, because there were no employees to supervise. [redacted] said [redacted] knew SHIRANI did not have a financial background, but [redacted] did not require such a background. [redacted] SHIRANI a position that did auditing, which [redacted] felt SHIRANI was qualified to perform. [redacted] with compliance experience. [redacted] felt that the opportunity to build SHIRANI's financial auditing skills could be done over time. [redacted] said this development would occur through on the job training and accessing the Arthur Andersen developmental course and training. [redacted] recalled speaking to DESPARTES and George HERTZ, Director of Internal

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Audit before [REDACTED] was hired, about SHIRANI's training and development. According to [REDACTED] DESPARTES agreed to make all the course material available to Exelon, who would then make it available to SHIRANI. [REDACTED] said [REDACTED] asked HERTZ to make training materials from an association of internal auditors available to SHIRANI. [REDACTED] did not know if SHIRANI attended any of the training because he immediately got into the audit work (Exhibit 35, pp. 58-66, 72).

[REDACTED] said SHIRANI provided information to [REDACTED] in regards to his current grade level and performance rating for 2000. [REDACTED] recalled learning of discrepancies in the information provided by SHIRANI, specifically his grade level, performance rating for 2000, and lead candidate status for the diversity position in nuclear. According to [REDACTED] when SHIRANI [REDACTED] contacted LANDY, Nuclear HR, and was told that SHIRANI's performance rating was not at the "A" level that SHIRANI had told [REDACTED] but at was actually at a lower level. [REDACTED] said LANDY informed [REDACTED] that SHIRANI's pay level was actually lower than the level told to [REDACTED] by SHIRANI. [REDACTED] stated that approximately three months prior to this matter, a new rating scale (referring to pay scale) was introduced, causing some grades to merge with other grades. [REDACTED] go through this experience [REDACTED] said a lot of employees went through this and those that had a salary above their new pay scale continued to receive their old pay. [REDACTED] said those employees would never get a decrease in their salaries and would not lose money. [REDACTED] acknowledged that the new rating scale came into effect before SHIRANI came to work for Internal Audit. Knowing this information, [REDACTED] said [REDACTED] brought these discrepancies to SHIRANI's attention, whereupon SHIRANI told [REDACTED] that his pay grade level had been secretly downgraded (Exhibit 35, pp. 52-58, 68-69, 74). 70

[REDACTED] recalled that SHIRANI told [REDACTED] that HR had evaluated all of the levels in Finance and his position was subsequently bumped down from a level 4 to a level 3. [REDACTED] believed that the reevaluations were actually conducted corporate-wide, in an effort to create corporate-wide consistency. [REDACTED] did not believe SHIRANI lost any pay and benefits because of the level reduction. [REDACTED] said [REDACTED] knows this based on SHIRANI telling [REDACTED] that only his level, not his title, was affected. [REDACTED] did not recall SHIRANI ever discussing with [REDACTED] that his performance rating was secretly reduced. [REDACTED] said [REDACTED] did not jump to the conclusion that SHIRANI had deliberately misled [REDACTED] regarding his performance rating and grade level since [REDACTED] knew that SHIRANI tended to project what he believes. [REDACTED] denied any personal knowledge, or of being aware of anyone reducing SHIRANI's performance ratings. [REDACTED] said that [REDACTED] repeatedly told SHIRANI that he was under no obligation or duress to take the position in [REDACTED] organization, he could remain in nuclear. [REDACTED] stated that SHIRANI's reaction to most things was to attribute it to somebody else's doing and not himself. [REDACTED] said [REDACTED] told SHIRANI that he should go back and think about what he wanted to do. [REDACTED] recalled that during a conference call with LANDY, and possibly Virginia BROWN, from HR, [REDACTED] asked LANDY whether

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SHIRANI was the lead candidate for the diversity position in nuclear. According to [REDACTED] LANDY told [REDACTED] that SHIRANI was not being considered for the position. [REDACTED] recalled a discussion with SHIRANI regarding the position in Finance and the diversity manager position in nuclear. According to [REDACTED] he asked SHIRANI if either job had been offered to him at that point in time. [REDACTED] said SHIRANI responded "No. Not at this time." [REDACTED] acknowledged that he did not contact anyone in regards to SHIRANI and either position (Exhibit 18; pp. 4-5; Exhibit 35, pp. 54, 68-69, 74-76, 111; Exhibit 36, pp. 61-62; Exhibit 37, pp. 17-18, 47-48).

According to [REDACTED] less than a week after [REDACTED] employment discussions with SHIRANI, [REDACTED] SHIRANI called [REDACTED] and told [REDACTED] he would like to accept the position in Internal Audit. [REDACTED] recalled telling SHIRANI [REDACTED] was delighted with his decision and was looking forward to having him involved in the Internal Audit function. [REDACTED] thought [REDACTED] had previously given SHIRANI preliminary salary and benefits information regarding his transfer to the position of principle auditor. [REDACTED] for SHIRANI being hired into Internal Audit [REDACTED] (Exhibit 35, pp. 69-73, 76, 79). 7c

[REDACTED] recalled doing a comparison between the position SHIRANI would occupy and the existing positions in Philadelphia. According to [REDACTED], since SHIRANI's pay grade level was actually below what [REDACTED] was lead to believe by SHIRANI [REDACTED] to a higher grade level, which included a higher dollar promotion. According to SHIRANI's self-nomination form and other Exelon documents, SHIRANI was promoted, and remained, an E4 when he entered Internal Audit, until the time of his termination. [REDACTED] said that based on SHIRANI's rating in nuclear, he also received a merit increase. [REDACTED] said SHIRANI received both, a promotional and merit increase. [REDACTED] said SHIRANI was being promoted to the grade level that he thought he was at previously (Exhibit 20; Exhibit 21; Exhibit 22; Exhibit 35, pp. 52-53, 72-73).

[REDACTED] believed job rotations were very positive for your career and the corporation. [REDACTED] acknowledged, from [REDACTED] perspective, SHIRANI leaving his engineering background for a position in Internal Audit was not an unusual transfer. [REDACTED] stated that his transfer could be beneficial to his career and the corporation. [REDACTED] said that if [REDACTED] felt otherwise, [REDACTED] would have suggested to SHIRANI that there was virtually no opportunity for him in finance. According to [REDACTED] when SHIRANI accepted the position in Internal Audit, [REDACTED] expressed to him that he ought to work closely with HERTZ and Arthur Andersen to really take advantage of learning on the job. [REDACTED] said [REDACTED] went through the audit plan to determine which audits would be beneficial to SHIRANI. [REDACTED] did not recall whether SHIRANI worked on any of those audits. [REDACTED] said during [REDACTED] with SHIRANI, [REDACTED] told him that they needed to broaden his experience. [REDACTED] said SHIRANI agreed. [REDACTED] said SHIRANI's overall performance on his mid-year evaluation was

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recalled SHIRANI telling GARZA [REDACTED] and she should have taken his side. [REDACTED] said GARZA did not lose her temper, but instead she calmly advised SHIRANI that [REDACTED] had nothing to do with the conversation. According to [REDACTED] SHIRANI stood up and then told them that they were out to get him because they thought he was a terrorist. [REDACTED] said that his standing up and heated tone had shaken [REDACTED] and GARZA, so [REDACTED] left the meeting and had [REDACTED] contact security. [REDACTED] recalled that since SHIRANI was using company equipment inappropriately and his behavior concerned [REDACTED] had security watch SHIRANI as he packed his belongings. [REDACTED] said SHIRANI turned in his company badge to security. [REDACTED] recalled SHIRANI trying to subsequently get into the building on a later date, through security, but was stopped because he did not have a valid ID. [REDACTED] said [REDACTED] showed [REDACTED] an e-mail from SHIRANI, which warned [REDACTED] that [REDACTED] had better watch out for [REDACTED] and not trust [REDACTED]. According to [REDACTED] [REDACTED] was becoming increasingly concerned over SHIRANI's increased frequency of communication to [REDACTED] which was also becoming more heated (Exhibit 37, pp. 58-60, 62-68).

[REDACTED] said SHIRANI was serving as a principal auditor when [REDACTED] started with Exelon. [REDACTED] defined the duties of principal auditor as someone who has a little more responsibility than a senior auditor, but does not have the responsibilities of a manager. [REDACTED] said a principal auditor would lead certain engagements and exercises. According to [REDACTED] SHIRANI was qualified for, and was actually performing, duties more in line with the senior auditor position than the principal auditor position. [REDACTED] did not recall SHIRANI performing any "lead" duties. [REDACTED] said [REDACTED] spoke with MAKRAS regarding SHIRANI's readiness to lead an audit. According to [REDACTED] MAKRAS advised [REDACTED] that SHIRANI was not ready to lead an audit because SHIRANI had a tendency to draw conclusions that were not necessarily based on the facts of the situation. [REDACTED] said Exelon does not like to demote an employee's title, and since SHIRANI indicated that his title was very important to him, they let him keep his title when Internal Audit was formed (Exhibit 37, pp. 13-16, 21-22).

[REDACTED] recalled SHIRANI accusing [REDACTED] during a meeting between [REDACTED] and SHIRANI, of bringing him to Internal Audit under the false pretenses of being promoted to the vice president level quickly. [REDACTED] indicated that [REDACTED] never had a conversation with SHIRANI where [REDACTED] made such a promise, nor did [REDACTED] ever make any promises of a specific level and opportunity. According to [REDACTED] SHIRANI disagreed with [REDACTED]. [REDACTED] recalled that SHIRANI told them that [REDACTED] had a plot to ruin SHIRANI's career. [REDACTED] said she and [REDACTED] did not know what he was talking about, nor did he elaborate, so they did not respond (Exhibit 37, pp. 53-56). 70

[REDACTED] recalled [REDACTED] being concerned about SHIRANI's "crossing of the line" with audit clients, as well as with SHIRANI's repeated disregard for their written communication protocol.

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[REDACTED] said [REDACTED] spoke to SHIRANI about his written communication and SHIRANI took great offense, but continued to disregard the Internal Audit written communication protocol. [REDACTED] stated that Arthur Andersen may have spoken to SHIRANI regarding his written communications. [REDACTED] recalled [REDACTED] showing [REDACTED] copies of SHIRANI's work that [REDACTED] because he kept on committing the same errors over and over again (Exhibit 35; pp. 91-94). 7C

[REDACTED] said SHIRANI told her that he did not apply for the senior auditor position because the top of the band was [REDACTED] and he was already making [REDACTED] dollars. [REDACTED] recalled SHIRANI telling [REDACTED] that his ability to move up in salary wouldn't be there if he was in that band. [REDACTED] said [REDACTED] told SHIRANI that although SHIRANI's base salary was [REDACTED] [REDACTED] SHIRANI through the quarterly incentive program to keep him whole in his mind, from a salary perspective. [REDACTED] told SHIRANI that the bands are reviewed annually or every other year, so therefore, it was quite possible for the top of the band to be broadened, and thus he could get additional monetary gains. According to [REDACTED] SHIRANI responded by telling them (GARZA and [REDACTED] that he did not want to step back a level in title and pay (Exhibit 37, pp. 36-37, 43-45). 7C

[REDACTED] According to [REDACTED] the criteria were technical experience and ability; industry experience; communication skills, which included written, verbal, and interpersonal skills; problem solving ability; creativity and innovation; and leadership/teamwork. [REDACTED] said the leadership aspect was more applicable for those positions that were going to lead reviews, while the teamwork aspect was more applicable for individuals that were working at the staff or senior levels. [REDACTED] recalled that the four employees not selected fell short in two or three of the criteria. [REDACTED] acknowledged three of the four employees not selected did not have a CPA or equivalent training (Exhibit 37, pp. 30, 70-76). 7C

[REDACTED] both manager positions in the West location (Chicago), which is the location SHIRANI had applied. [REDACTED] said there was one manager position in the East location (Philadelphia) of which SHIRANI did not apply. According to [REDACTED] the two people selected for the manager positions in the West location were rated and ranked higher than SHIRANI. [REDACTED] acknowledged that SHIRANI's qualifications were not even close to the two individuals selected (Exhibit 37, pp. 39-40). 7C

[REDACTED] said SHIRANI's employment was terminated as a result of his having not posted for any other job besides the one posting that he was not selected. According to [REDACTED] to terminate SHIRANI. [REDACTED] denied talking with [REDACTED] in regards to finding a position in the organization for SHIRANI anyway (Exhibit 35, pp. 104, 107). 7C

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██████████ said SHIRANI's termination centered around his not wanting to apply for the position that was commensurate with his experience and background, and only being willing to apply for the manager position. ██████████ stated that SHIRANI was not qualified for the manager position and was thus given notice of separation. ██████████ said SHIRANI was encouraged to apply for positions other than the managerial position. ██████████ said Internal Audit conducts financial, operational, and IT audits. ██████████ believed SHIRANI was qualified as a senior auditor on operational reviews. ██████████ acknowledged that there was a spot for someone with SHIRANI's qualifications as a senior auditor in Internal Audit to perform operational audits and that would also participate as a team member for financial reviews until he got up to speed in that area. ██████████ stated that the posting process was straight forward and made clear to SHIRANI and everyone else. ██████████ recalled memoranda being provided to everyone, as well as meetings with ██████████ and HR. ██████████ to all six of the existing employees regarding the new Internal Audit structure, and the job posting process. ██████████ HR's e-mail, which identified the time line for the process and decision making period, to all six employees. ██████████ acknowledged that the entire process was laid out for the employees, including SHIRANI. ██████████ denied that ██████████ deviated from this practice in relation to SHIRANI. ██████████ recalled that information was provided to everyone regarding what happens when someone was not selected for a job, what their termination date would be, and the details of their severance packages. ██████████ said there would have been a strong likelihood that he would have been a successful candidate for those positions. ██████████ acknowledged that the three people let go from the company had years of relevant, direct internal audit and financial experience, more than SHIRANI. ██████████ denied that SHIRANI was terminated because he raised safety concerns. ██████████ said the official reason for SHIRANI's termination was because he was not selected for the position that he applied (Exhibit 35, pp. 87-90; 108; Exhibit 37, pp. 31-33, 46, 67-69). 7c

██████████ said the only person ██████████ recalled contacting regarding SHIRANI was security, who subsequently spoke with the local police departments near ██████████ residences because of some of SHIRANI's inflamed remarks toward them. ██████████ was not aware of anyone in Exelon making any attempt to keep SHIRANI from getting employed anywhere (Exhibit 37, pp. 48, 51-53, 69). 7c

██████████ recalled another incident with SHIRANI where he alleged that there was a discriminatory attitude against him. According to ██████████ SHIRANI's job performance at the level equivalent to meeting expectations on his mid-year evaluation. ██████████ felt it was a fair rating for someone who had been on the job for only six months. ██████████ said the mid-year evaluation included areas for SHIRANI to focus on improving. ██████████ recalled hearing a rumor that SHIRANI had asked KINGSLEY if he could leave ██████████ and be placed back in nuclear (Exhibit 35, pp. 97-98).

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According to [REDACTED] [REDACTED] said SHIRANI was still working [REDACTED] when [REDACTED] denied having conversations with anyone at S&L, EMS, NUPIC, and ASME regarding SHIRANI. [REDACTED] to SHIRANI last year, for him to attend an ASME conference during the time period that he either chose not to apply for his same position in Internal Audit, or after he was given notice of termination. [REDACTED] said SHIRANI did go to the conference and made his presentation (Exhibit 35, pp. 99, 101-102; Exhibit 38, p. 31).

[REDACTED] said that during the merger process, nobody was required to nominate anybody for anything [REDACTED] recalled that there was a process by which managers could nominate individuals for jobs in addition to their self nominations. [REDACTED] said this process was not a requirement, it could be used at a manager's discretion (Exhibit 35, pp. 102-103).

[REDACTED] blocked a promotion for SHIRANI. [REDACTED] is only familiar with [REDACTED] name through conversations with HELFRICH. [REDACTED] denied participating in a scheme to blacklist SHIRANI from gaining employment anywhere. [REDACTED] denied participating in any conspiracy to get SHIRANI out of nuclear and/or to punish SHIRANI for raising safety concerns. [REDACTED] denied harassing or intimidating SHIRANI to leave the company. [REDACTED] said he made overtures to be supportive to SHIRANI, in an effort to make sure that SHIRANI had no reason to feel or suspect that [REDACTED] was going to harass or intimidate him. [REDACTED] denied blacklisting SHIRANI from returning to nuclear. [REDACTED] 7c

[REDACTED] in regards to SHIRANI. [REDACTED] denied talking with S&L, Karaman Consultants, NUPIC, ASME, or EMS regarding SHIRANI. [REDACTED] to harass, intimidate, or push SHIRANI out of the company. [REDACTED] about any safety issues raised by SHIRANI. [REDACTED] regarding SHIRANI. [REDACTED] that he wanted SHIRANI out of the company. [REDACTED] denied influencing SHIRANI's exit from Exelon. [REDACTED] denied threatening or intimidating anyone under him to get SHIRANI out of the company (Exhibit 35, pp. 99-101; Exhibit 37, pp. 48-50; Exhibit 38, pp. 29-31, 35-36, 50-52).

[REDACTED] recalled someone forwarding an e-mail from SHIRANI to [REDACTED] [REDACTED] said SHIRANI sent the e-mail with a broad distribution, which included senior management and the AACES membership. [REDACTED] referred

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to SHIRANI's assumptions in his e-mail as his claim of injustices that had been done to him. [REDACTED] recalled, in particular, that SHIRANI cited concerns [REDACTED] [REDACTED] did not recall whether SHIRANI cited safety concerns in the e-mail. According to [REDACTED] when [REDACTED] there were a number of e-mails from members and the leadership of AACES apologizing to [REDACTED] for SHIRANI's behavior. [REDACTED] said they were aghast at why SHIRANI included them on an e-mail that was his personal business. SHIRANI's e-mail stated that he did not apply for the E3 grade position because his salary was at the maximum level for the E3 band (Exhibit 31; pp. 1-2; Exhibit 35, pp. 105-107).

[REDACTED] ever mentioned to him that they didn't care for SHIRANI. [REDACTED] said SHIRANI left [REDACTED] because he was offered a position in Corporate Finance. [REDACTED] SHIRANI respond to two job postings, both of which were promotional opportunities. [REDACTED] said that SHIRANI had asked him for help in moving up in the company. [REDACTED] said he agreed that it was time for SHIRANI to move on. [REDACTED] SHIRANI complete his paperwork for the diversity manager job. [REDACTED] stated that he was a little surprised to hear SHIRANI had another position because he didn't know anything about it until after SHIRANI was offered the position. [REDACTED] acknowledged that SHIRANI never complained about being pressured by [REDACTED] or anyone else, to seek another position. According to [REDACTED] SHIRANI told him that he was taking the finance position because he was going to make more money. [REDACTED] recalled SHIRANI telling him that the level of the position was not as high as he would like. [REDACTED] stated that he was pretty sure that SHIRANI was going to be getting a promotion, otherwise he would not be taking the position. [REDACTED] acknowledged that [REDACTED] did not contact him regarding SHIRANI. [REDACTED] denied knowing who SHIRANI reported to in Finance. [REDACTED] denied being contacted by [REDACTED] in regards to SHIRANI (Exhibit 36, pp. 53-56, 62-65, 82). 7C

[REDACTED] recalled being asked by YESSIAN whether he had any job openings in his group. [REDACTED] did not recall YESSIAN mentioning SHIRANI's name in the conversation. He said he told YESSIAN that at his present staffing levels, he didn't have any more budgeted money for another person. [REDACTED] said his staffing levels at that time were [REDACTED]. He said his current staffing levels are the same. According to [REDACTED] during the past two years his staffing levels had been going down. He said he has been contracting out work as necessary. [REDACTED] said when he was establishing the grade structure for his organization in the new company, he had to send job descriptions to HR and they came back with ratings (grade levels) on the job descriptions. [REDACTED] acknowledged that he has not hired anyone since October of 2001. [REDACTED] denied that SHIRANI asked to come [REDACTED]. [REDACTED] denied being told not to talk with SHIRANI or to not bring SHIRANI [REDACTED]. (Exhibit 36, pp. 65-66, 83-84, 86-87). 7C

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Agent's Note: OI speculates SHIRANI's call to YESSIAN may have initiated YESSIAN's solicitous call to [REDACTED] (Exhibit 2, pp. 59-65).

[REDACTED] said he was an [REDACTED]. He acknowledged SHIRANI was an E3, which was an individual contributor. [REDACTED] acknowledged that an E3 is below an E4 (Exhibit 36, pp. 67-69, 83).

[REDACTED] did not recall BURGESS ever talking to him about SHIRANI working in her group. [REDACTED] said NETZEL retired from the company. [REDACTED] denied ever talking with [REDACTED] regarding SHIRANI (Exhibit 36, pp. 56, 89).

[REDACTED] said SHIRANI mentioned to him that shortly after [REDACTED] approached SHIRANI and made a point of telling SHIRANI that there were no hard feelings and that he was looking forward to working with SHIRANI. [REDACTED] denied that SHIRANI had ever informed him that [REDACTED] tried to retaliate against SHIRANI for raising safety concerns. [REDACTED] denied that SHIRANI ever indicated to him that anybody at Exelon was retaliating against him because he worked on the DSQG audit and raised a safety issue (Exhibit 39, pp. 9-12).

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Agent's Analysis

SHIRANI's claim that he was demoted when Exelon converted from the numeric pay levels to the roman numeral pay levels is incorrect. Management testimony and documentary evidence clearly showed that SHIRANI did not lose any pay during or after the conversion to the new pay scale.

Management testimony and documentary evidence indicated that SHIRANI's performance appraisals for 1998, 1999, and 2000 were not downgraded.

[REDACTED] testified that managers were not required to nominate employees for positions during the merger process. Even SHIRANI testified that he understood it as managers "should" nominate their employees, indicating that it was not a requirement (Exhibit 2, p. 42).

In SHIRANI's statement to OSHA, he asserted that he was being nominated for the diversity manager position, which was a better paying position than what [REDACTED] SHIRANI acknowledged in his statement to OSHA, that [REDACTED] reminded him that he was a grown up and could make up his mind regarding which position he should take.

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SHIRANI asked [REDACTED]. In response to SHIRANI's request,

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[REDACTED] The new position included a pay increase in excess of \$7,000.00, and a promotion from the E3 to E4 pay level. SHIRANI chose to take the position [REDACTED] as he also initiated the contact to nuclear HR to take his name out of the hat regarding the diversity manager position. Since May 21, 1990, SHIRANI's salary has always gone up (Exhibit 20; Exhibit 21; Exhibit 22).

In the summer of 2000, in anticipation of the October 2000 merger, Exelon reorganized. Internal Audit did not reorganize at that time due to the general auditor vacancy. However, following the arrival of [REDACTED], Internal Audit underwent a strategic performance assessment in approximately the Summer of 2001. The assessment [REDACTED] provided this information to the HR department, which then evaluated, graded, and titled the positions for the appropriate pay levels following suit with the remainder of Exelon, and thus creating an organization that had positions consistently graded for pay and responsibility on a corporate-wide basis. Positions were created and/or changed to follow best industry practices. SHIRANI and the other employees of the Internal Audit organization were kept informed of each stage of this process. Since the positions changed, all of the employees in Internal Audit had to reapply for their positions, not just SHIRANI.

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SHIRANI did not reapply for his current position, instead, he applied for the principal/manager position, for which SHIRANI knew he was not qualified. The qualifications for the new principal/manager position were identified in the vacancy posting, as well as covered with SHIRANI [REDACTED]. SHIRANI was counseled on numerous occasions by a variety of people to apply for the senior auditor position, even though he was applying for the principal/manager position. SHIRANI stated in his e-mail that he chose not to reapply for the senior auditor, E3, position because his salary would have gone above the pay band. [REDACTED] testified that SHIRANI was told that there were different ways for SHIRANI to still experience monetary gains at the E3 level, even though his salary was at the top of the band. Since SHIRANI was not selected for the principal/manager position, and because he did not apply for any other positions, he was notified of his termination. During the meeting when he was notified of his termination, SHIRANI accused [REDACTED] of terminating him because of his race/ethnicity, not because he raised safety concerns. [REDACTED] testified that SHIRANI was only provided business reasons for his termination. Testimony indicated that SHIRANI was one of four employees, out of a total of six employees, in Internal Audit that did not get a position in the new organization.

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In SHIRANI's EEOC complaint, he alleged that his employment was terminated because of his frequent complaints of unjust treatment for Asian Americans. In that same complaint, SHIRANI also alleged that he was discriminated against because he was an [REDACTED]. SHIRANI made no mention that his termination was also because of safety concerns he raised while at Exelon. In fact, during the meeting in which he was told of his termination, SHIRANI accused management of firing him because of his race/ethnicity, not because he had raised safety

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concerns.

[REDACTED] understood their 10 CFR 50.5 and 10 CFR 50.7 training. [REDACTED] denied harassing or intimidating SHIRANI to leave the company. [REDACTED] denied threatening or intimidating anyone under him to force SHIRANI out of the company. [REDACTED] denied discriminating against SHIRANI. 7C

SHIRANI had not been secretly demoted during Exelon's pay scale conversion, nor was SHIRANI's performance appraisals for 1998, 1999, and 2000 downgraded. Management in nuclear was not required to nominate SHIRANI for any positions during the merger. SHIRANI's termination was based on legitimate business reasons in that he was not selected for the principal/manager position, which was a position that SHIRANI knew he was not qualified, and because he did not apply for any other position.

Conclusion

Based on the evidence developed, OI did not substantiate the allegation that SHIRANI, a Principal Auditor, was discriminated against for raising safety concerns.

OI Violation No. 2: Discrimination by Blacklisting Against a Former Principal Auditor for Raising Safety Concerns

Evidence

1. Protected Activity

SHIRANI stated that he served as the lead auditor during the audit of GENE in 1997. According to SHIRANI, the audit team came up with twelve findings against GENE, which resulted in a stop work order being issued against GENE (Exhibit 2, pp. 10-15; Exhibit 10, p. 4).

SHIRANI recalled that in July of 2000, he served as the lead auditor on the NUPIC team that conducted an audit of the Holtec/UST DSQG project. SHIRANI wrote in the Holtec/UST audit summary that the NRC inspection, which occurred six months prior to his audit, did not come up with any issues, nor did a NUPIC audit conducted in approximately 1999. SHIRANI said his audit came up with nine findings against Holtec, which he shared with LANDSMAN, NRC:RIII, during a symposium hosted by Holtec on November 30, 2000, which also included representatives from approximately 20 utilities and the NRC (Exhibit 2, pp. 34-38; Exhibit 10, p. 4).

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2. Knowledge of SHIRANI's Protected Activity

██████████ acknowledged that SHIRANI spoke frequently about the 1997 GENE audit, but denied that SHIRANI ever mentioned any safety concerns. ██████████ said SHIRANI mentioned that he had audit findings that were significant, including a stop work order (Exhibit 39, p. 9).

██████████ acknowledged that SHIRANI mentioned some of his work on the DSQG audit. ██████████ denied that SHIRANI shared any safety concern that he had raised during the audit, but rather he (SHIRANI) spoke ██████████ about how he (SHIRANI) resolved the issue he raised during the audit, demonstrating that there was not a safety concern (Exhibit 39, pp. 11-12).

3. Unfavorable Action Taken Against SHIRANI

SHIRANI acknowledged that S&L did not hire him because of the safety issues he raised while at ComEd (Exhibit 10, pp. 1-4).

4. Did the Unfavorable Action Result from SHIRANI Engaging in a Protected Activity

██████████ acknowledged that they understood 10 CFR 50.5 and 10 CFR 50.7, which addressed the issue of discriminating against an employee for raising safety concerns (Exhibit 38, pp. 6-7; Exhibit 39, p. 7).

██████████ at S&L for the division, stated that the hiring process for the QA division begins with the identification of a job opening, identifying potential applicants, interviews, assessment of credentials after the interviews, and a decision as to whether to extend a job offer. ██████████ said the job offer is extended by an employee from the HR division or the group manager, followed by HR sending a written job offer to the applicant that management wanted to hire. ██████████ stated that the verbal offer is a qualified offer that is based on the applicant receiving a written offer from HR. ██████████ said there is no exception to this practice of extending an official job offer. ██████████ acknowledged that it is S&L's standard practice that a job offer is truly not extended to an applicant until the applicant receives the offer in writing. ██████████ acknowledged that SHIRANI did not receive a letter from HR because he was never offered a job. ██████████ denied that ██████████ or S&L extended any job offer to SHIRANI. ██████████ said the intent of the letter Pete MEEHAN, Manager of HR, sent to SHIRANI on November 28, 2001, was to clarify that no job offer was made to SHIRANI (Exhibit 32, p. 2; Exhibit 40, pp. 7-13).

██████████ said SHIRANI mentioned to him that shortly after ██████████ approached SHIRANI and made a point of telling SHIRANI that there were no hard feelings and that he was looking forward to working with SHIRANI. ██████████ denied that SHIRANI had ever

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informed him that [REDACTED] tried to retaliate against SHIRANI for raising safety concerns. [REDACTED] denied that SHIRANI ever indicated to him that anybody at Exelon was retaliating against him because he worked on the DSQG audit and raised a safety issue (Exhibit 39, pp. 9-12). 7C

[REDACTED] said SHIRANI approached him in regards to SHIRANI switching employment to S&L. According to [REDACTED] the series of scheduled appointments with SHIRANI were on an informal basis, it was no big deal to cancel. [REDACTED] denied that he canceled those appointments because somebody else had instructed him to cancel. [REDACTED] recalled both of them ([REDACTED] and SHIRANI) canceling appointments. [REDACTED] stated that he was not aware that SHIRANI was no longer an employee of ComEd until SHIRANI talked to him on November 8, 2001 (Exhibit 39, pp. 13-15).

SHIRANI acknowledged that none of his friends at S&L ever told him that [REDACTED] did not meet him for lunch because of the safety concerns he raised while at ComEd. SHIRANI admitted that he was speculating as to why [REDACTED] did not meet him for lunch (Exhibit 10, pp. 3-4).

[REDACTED] said they met on November 8, 2001, at S&L's offices, privately. [REDACTED] recalled that they discussed SHIRANI's employment situation. According to [REDACTED] SHIRANI told him that he sent an e-mail to McNEIL (nfi), ROWE, and KINGSLEY. [REDACTED] said SHIRANI told him that he (SHIRANI) was subsequently asked to leave by security. [REDACTED] recalled that SHIRANI felt ComEd finally had got him. [REDACTED] denied that during his conversation with SHIRANI, SHIRANI said it was because he raised safety concerns or equal employment issues (Exhibit 39, pp. 15-18). 7C

According to [REDACTED] during the November 8, 2001, meeting with SHIRANI SHIRANI presented his career highlights, credentials, and accomplishments to [REDACTED] denied that during this portion of the conversation, SHIRANI had told him of any safety concerns that he has raised in the past. [REDACTED] recalled SHIRANI making an assumption that S&L had a job opportunity for him (SHIRANI). [REDACTED] said SHIRANI told him that "now is the time I need to make the transfer. When can I get started?" [REDACTED] stated that he told SHIRANI to "slow down" and to talk about the type of work he was interested in performing. [REDACTED] denied that he verbally offered SHIRANI a position at S&L. [REDACTED] denied that he offered SHIRANI a position working on a specific job project. [REDACTED] denied offering any type of employment opportunity to SHIRANI during their November 8, 2001, meeting. [REDACTED] denied ever telling SHIRANI that he had any job openings in S&L's [REDACTED] Exhibit 29; Exhibit 39, pp. 18-22). 7C

[REDACTED] recalled SHIRANI initiating a discussion about salary during their November 8, 2001, meeting. According to [REDACTED] SHIRANI told him that he was earning approximately

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[redacted] a year at ComEd. [redacted] said SHIRANI followed that statement by asking how much more S&L could give him. [redacted] said he was surprised by SHIRANI's remarks. [redacted] stated that he told SHIRANI that they were not talking about that kind of money at S&L. [redacted] said that he told SHIRANI that if they did have a job opening, S&L would pay [redacted]. [redacted] recalled SHIRANI responding by telling [redacted] that he could bring more business to S&L. According to [redacted] SHIRANI also discussed that he wanted a management position with management pay. [redacted] said he and SHIRANI then spoke about title, benefit packages, vacation time, and bonuses, as he would with any other candidate. [redacted] said he told SHIRANI that he would contact him around the Thanksgiving holiday with either a job offer or no offer. [redacted] acknowledged that in discussing this information, he was not confirming with SHIRANI that he had a job at S&L. [redacted] stated that he made it clear to SHIRANI that there was no job offer to SHIRANI. [redacted] said he told SHIRANI [redacted] but SHIRANI did not listen real well and may not have been aware of what he was told (Exhibit 39, pp. 22-25, 27-28). 7C

[redacted] recalled receiving a letter from SHIRANI, dated November 26, 2001. [redacted] said SHIRANI's letter contained assumptions that were incorrect, such as the part of the letter confirming that SHIRANI received a verbal offer from [redacted]. [redacted] said he made no verbal offer of any type. [redacted] stated that he brought the letter to MEEHAN and told MEEHAN that SHIRANI was badly mistaken. [redacted] recalled MEEHAN asking him, repeatedly, whether he made a verbal offer to SHIRANI. [redacted] stated that he reminded MEEHAN that he was a veteran manager and that he did not make SHIRANI a verbal offer of employment. According to [redacted] MEEHAN sent SHIRANI a letter apologizing if there was any kind of misunderstanding, but that there was no job offer. [redacted] said the letter advised SHIRANI that his resume would be kept on file for future consideration, if anything opened up. [redacted] acknowledged that the letter was accurate and correct in stating that no offer was made to SHIRANI (Exhibit 32, Exhibit 39, pp. 29-32).

[redacted] acknowledged that S&L's, as well as the [redacted] standard practice for offering a position is that the offer comes from the HR department, not him. [redacted] acknowledged that he did not deviate from this practice in his dealings with SHIRANI (Exhibit 39, pp. 32-33). 7C

[redacted] denied hearing from SHIRANI after MEEHAN's letter was sent (Exhibit 39, p. 33).

[redacted] said he did have a candidate in the pipeline for a lower level position vacancy in the Chicago office, prior to his meeting with SHIRANI. [redacted] stated that he hire [redacted] had initiated employment discussions with [redacted] November 8, 2001, meeting with SHIRANI. [redacted] said SHIRANI was unaware of the office position opening.

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According to [REDACTED] he would have told SHIRANI about the position except for the fact that SHIRANI had stated a strong position that he was after a managerial position with managerial level pay, wanted to interface with clients, and would develop business. [REDACTED] stated that based on SHIRANI's salary expectations, title expectations, and the mix of the work load, all of which were initiated in their conversation by SHIRANI, [REDACTED] did not discuss the office position opening with SHIRANI. [REDACTED] acknowledged that he did not make SHIRANI aware of the office position being open, nor did SHIRANI indicate to him that he was aware of the position being open. [REDACTED] was better qualified for the position than SHIRANI. [REDACTED] accepted the position and a salary of approximately [REDACTED] year. [REDACTED] acknowledged that the official job offer to [REDACTED] came from the HR department, not [REDACTED]. [REDACTED] acknowledged that he did not have any other openings in November (Exhibit 32, p. 3; Exhibit 39, pp. 35-41).

[REDACTED] stated neither he nor anyone else at S&L were informed by [REDACTED] not to hire SHIRANI. [REDACTED] was not aware of anyone else from Exelon advising anyone at S&L that they should not hire SHIRANI. [REDACTED] denied that he or anyone at S&L contacted Exelon regarding SHIRANI. [REDACTED] denied being part of a conspiracy to keep SHIRANI from gaining employment in the nuclear and/or non-nuclear businesses. [REDACTED] denied participating in a conspiracy to keep SHIRANI from gaining employment at S&L or anywhere else. [REDACTED] denied being instructed by anyone at S&L or Exelon to keep SHIRANI from gaining employment (Exhibit 39, pp. 39-40; Exhibit 40, pp. 10-11). 7C

[REDACTED] denied participating in a scheme to blacklist SHIRANI from gaining employment. [REDACTED] denied participating in any conspiracy to get SHIRANI out of nuclear and/or to punish SHIRANI for raising safety concerns. [REDACTED] denied talking with S&L, KCI, NUPIC, ASME, or Engineering Management Specialists regarding SHIRANI (Exhibit 35, p. 101; Exhibit 37, pp. 48-50; Exhibit 38, pp. 50-51).

According to [REDACTED] people have contacted him regarding SHIRANI. [REDACTED] said he confirmed to them that SHIRANI [REDACTED] and Exelon during a certain time frame. [REDACTED] stated that he told people that SHIRANI was [REDACTED] at the time he (SHIRANI) left the company, and as a result, he was unaware of the circumstances surrounding SHIRANI's departure from the company. [REDACTED] denied blacklisting or making negative comments about SHIRANI to S&L, KCI, EMS, NUPIC members, or ASME members. [REDACTED] denied blacklisting SHIRANI from gaining employment in the nuclear industry. [REDACTED] denied harassing and/or intimidating SHIRANI. [REDACTED] denied keeping or pressuring SHIRANI to stay or leave [REDACTED] because he raised safety concerns (Exhibit 36, pp. 48-52). 7C

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Agent's Analysis

SHIRANI was not aware of any vacancies in the QA division, nor did [REDACTED] make him aware of any. [REDACTED] said there was one vacancy, however, it was for a lower level position that clearly did not meet the criteria established by SHIRANI during his conversation with [REDACTED]. [REDACTED] did not make a verbal job offer to SHIRANI. When SHIRANI asked when he could start, [REDACTED] told SHIRANI to "slow down." [REDACTED] testified that he told SHIRANI that he would contact him around the Thanksgiving holiday to tell him whether S&L would be extending a job offer to him. HR for S&L, upon receipt of SHIRANI's letter, promptly sent him a letter clarifying that no job offer was extended to him.

[REDACTED] understood their training in 10 CFR 50.5 and 10 CFR 50.7. [REDACTED] denied participating in a scheme to blacklist SHIRANI from gaining employment. [REDACTED] denied talking with anyone at S&L regarding SHIRANI.

Conclusion

Based on the evidence developed, the investigation did not substantiate the allegation that SHIRANI, a former Principal Auditor at Exelon, was blacklisted from gaining employment at S&L because of safety concerns raised while he was employed at Exelon.

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SUPPLEMENTAL INFORMATION

SHIRANI provided two additional examples of blacklisting during his OI interview. SHIRANI said he applied for a position at KCI and that he also spoke with [REDACTED] owner of EMS, and SHIRANI recalled [REDACTED] telling him that [REDACTED] would get him some jobs outside of nuclear (Exhibit 2, pp. 147-149, 151). 20

Agent's Note: These additional examples of blacklisting were later withdrawn by SHIRANI (Exhibit 41).

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Case No. 3-2001-055

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1.	Investigation Status Record, OI Case No. 3-2001-055, Allegation No. RIII-2001-A-0174, dated November 19, 2001.
2.	Transcript of SHIRANI interview, dated December 18, 2001.
3.	E-mail from BERSON, dated January 29, 2002.
4.	Allegation Review Board Minutes, RIII-01-A-0174, dated November 19, 2001.
5.	Allegation Review Board Minutes, RIII-02-A-0005, dated May 20, 2002.
6.	Report of Telephonic Contact between SA Langan and SHIRANI, dated May 3, 2002.
7.	Written statement from SHIRANI, dated May 3, 2002.
8.	E-mail from SHIRANI to HELLER, NRC:RIII Staff, dated May 14, 2002.
9.	A package of documents titled "Prepared by Oscar B. Shirani for USNRC on December 3, 2001", with attachments, provided by SHIRANI to the NRC.
10.	EICS document, titled Allegor Visit, undated.
11.	SHIRANI's Charge of Discrimination, as filed with the EEOC, charge number 210A20477, dated November 5, 2001.
12.	Letter from BURKE, Assistant General Counsel for Labor and Employment, Exelon, dated December 21, 2001.
13.	EEOC Dismissal and Notice of Rights, dated January 31, 2002.
14.	E-mail from SHIRANI to HELLER, with attachment, dated April 24, 2002.

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15. E-mail from SALEHI to HELLER, dated March 16, 2002; Letter, sent via e-mail, from SALEHI to JORGENSEN, NRC:RIII Branch Chief, Division of Reactor Projects, thru HELLER, dated December 29, 2001.
16. Letter from ANDERSON, Area Director, DOL/OSHA, to HELFRICH, General Counsel for Exelon, dated February 11, 2002. Attached was a copy of SHIRANI's statement to DOL/OSHA, dated February 1, 2002.
17. E-mail correspondence from SHIRANI to HELLER, NRC:RIII Staff, dated March 28, 2002, with a letter from SHIRANI to Roy REES, DOL/OSHA, dated March 27, 2002.
18. Exelon's response to SHIRANI's DOL/OSHA complaint, as prepared by Scott E. GROSS, Attorney for Sidley, Austin, Brown and Wood, dated February 19, 2002.
19. Copies of performance ratings for the following Exelon employees: Performance Year 2000: SHIRANI; Performance Year 1999: SHIRANI, [REDACTED]
[REDACTED] Performance Year 1998: [REDACTED]
[REDACTED]
20. Internal Resume, SHIRANI, generated on December 19, 2001.
21. Exelon Selection/Compensation Action (Revised) for SHIRANI, effective date January 1, 2001.
22. Exelon Career Opportunity System, Attachment 7.1 - Self-Nomination Form, Attachment 7.2 - Resume Template, SHIRANI's resume, and the Management Career Opportunity Application submitted by SHIRANI for the Principal/Manager, Audit, Salary Grade E4 position, dated October 16, 2001.
23. Exelon Nuclear Job Description - Management Position, Supplier Evaluation Lead in Exelon Nuclear, description date May 16, 2000; Candidate Summary for SHIRANI, signed by Tony BROCCOLO, dated July 21, 2000; a copy of SHIRANI's resume; Candidate Summary for SHIRANI; John HELLER's, Title Unknown, notes from his interview of SHIRANI.
24. GARZA's notes from [REDACTED] meeting with [REDACTED] and SHIRANI on October 30, 2001.

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25. Severance Package letter from LUIS, Severance Plan Administrator, to SHIRANI, dated October 26, 2001; SHIRANI's Personalized Statement of Separation Plan Benefits.
26. SHIRANI's Candidate Assessment forms for the Manager, Internal Audit position, October 22, 2001; Exelon Performance Planning & Appraisal, mid-year performance review for SHIRANI, dated July 17, 2001; E-mail from ZURAWSKI, Title Unknown, to [REDACTED] dated October 16, 2001; SHIRANI's Performance Evaluation-Professional Audit Staff, end date October 11, 2001; SHIRANI's Performance Evaluation-Professional Audit Staff, end date August 17, 2001.
27. Various Meeting Notes made by PALACIO regarding SHIRANI and his issues.
28. GARZA's notes from a telephone conversation between GARZA and SHIRANI, dated October 11, 2001.
29. Report of Telephonic Contact between SA Langan and [REDACTED] dated May 2, 2002.
30. Exelon Internal Audit Services showing [REDACTED] organization chart for the Internal Audit group; Letter from HELFRICH, dated April 16, 2002.
31. Various e-mails involving SHIRANI, for the time period of August 9, 2001 to October 30, 2001.
32. Letter from SHIRANI to [REDACTED] dated November 26, 2001; Letter from MEEHAN, Manager of Human Resources for S&L to SHIRANI, dated November 28, 2001; Letter from MEEHAN to [REDACTED], dated November 27, 2001; Letter from SHIRANI to WATELET, Senior Partner at S&L, dated January 14, 2002; JACQUES, Partner at S&L, notes of a telephone conversation he had with SHIRANI on December 14, 2001.
33. Letter, with attachments, from HELFRICH, dated June 14, 2002.
34. DOL/OSHA sent a letter to GROSS, dated June 3, 2002.
35. Transcript of [REDACTED] interview, dated April 24, 2002.
36. Transcript of [REDACTED] interview, dated April 16, 2002.

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37. Transcript of [REDACTED] interview, dated May 17, 2002.
38. Transcript of [REDACTED] interview, dated May 30, 2002. 76
39. Transcript of [REDACTED] interview, dated May 15, 2002.
40. Transcript of [REDACTED] interview, dated May 15, 2002.
41. Allegation Review Board Minutes, RIII-02-A-0005, dated July 1, 2002.

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