

From: David Vito *DS*  
To: [REDACTED]  
Date: 11/23/04 3:52PM  
Subject: Re: OI report

Not as of today.

*7c*

>> [REDACTED] 11/23/04 03:45PM >>>  
Dave,

Have you received OI's report yet on my case?

Please advise.

Thanks,  
Kymn

Nancy Kymn Harvin, Ph.D.

LEADERS WORTH FOLLOWING  
[REDACTED]

*T-237*

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions *DX*  
FOIA- 2005-194

Alleges' Comments

Mr. Vito,

Dave,

I have received the letter today from the NRC as we discussed via telephone.

The above paragraphs have typos. Please correct and resend.

In addition, I have found at least 5 factual errors in the letter.

You write:

"...in and around the Fall of 2002, the [redacted] terminated a consulting contract that did work similar to work you performed."

1. This is incorrect. The consulting firm that we worked with, Gap International Inc., charged PSEG millions of dollars over several years, including into 2003. They billed PSEG \$6,000 PER DAY for each consultant and the contract did not end in 2002. Gap's services were utilized throughout early 2003, including for a Saturday, March 1, 2003 meeting I participated in with [redacted] (see below), and at least three Gap Consultants at the Nuclear Training Center. Gap International consultants continued to serve even beyond the announcement of [redacted] retirement.

K

"The investigation also identified that you were offered a job on site as an HR Consultant, which you declined.

2. This is incorrect. I was never offered another job on site, as HR Consultant or any other position. I was offered the opportunity to interview for this significantly lower-level position, which I declined upon the advice of the outplacement executive PSEG asked me to meet with.

"The evidence indicates that people were not brought in to perform your function immediately after your position was eliminated."

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3. This is incorrect. [redacted] of Organization Change Resources in Princeton, called me on my last day 3/28/03 to inform me he had been hired that day to continue the work I had begun in the Chemistry organization. [redacted] to whom Chemistry reported, confirmed this [redacted] work in the Chemistry organization began in April, 2003 after the contract was drawn up. I spoke with Mr. Jeff Teator, the OI investigator, several times in 2004 when I learned [redacted] had not been contacted to substantiate this information.

4. This is incorrect. [redacted] of Corporate Effects, Inc. and a friend of [redacted] was hired in February, 2003. [redacted] work is management and leadership mentoring (also called "coaching") and change. His website, as well as his personal conversations with me in February and March of 2003, show great similarities in our work and approach. [www.corporateeffects.com](http://www.corporateeffects.com) (<http://www.corporateeffects.com/>) He confirmed he was hired to do "our kind of work" in the Maintenance organization and expected to be at the site six-nine months for \$150,000. His work ended prematurely, in part, because I complained to Harry Keiser about this, refuting the "budgetary reasons" argument he had given me for my position elimination.

"Investigation testimony corroborates that Corporate HR individuals made the decision to move up your last day of employment."

5. While "investigation testimony" may say the above, three different audio recordings I provided to the NRC make it clear that [REDACTED] made the decision and that [REDACTED] was carrying it out. Frankly, if there is any dispute in testimony, I would expect investigators to rely on the real-time audio recordings, not company officials' after-the-fact statements.

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There are additional inconsistencies between what is written in your letter and what PSEG officials communicated during the "independent investigation" interviews conducted in 2003 by Winston & Strawn attorneys. I am not, at this time however, able to specifically point out these inconsistencies due to pending confidentiality rulings on some discovery provided by PSEG under court order in my civil litigation. We will be petitioning the judge for permission to share this information.

As you know, I came to the NRC in September, 2003, with numerous issues related to operational decision-making, nuclear safety, equipment problems, and the work environment as well as my termination. I cooperated fully with the NRC, providing documentation, audio tapes, insights into the organization and evidence of my allegations. The NRC has already issued public letters to the utility confirming much of what I reported and has heightened regulatory oversight. I have done my best to insure the health and safety of all are protected, and to be, as I call it, a Leader Worth Following.

In my discrimination case, I was promised a thorough, independent, and unbiased investigation. Yet, already--in a five page summary letter--I have found substantive factual errors. This assures I will find more errors when I review the thousands of pages of investigative material under the Freedom of Information Act.

If the NRC's ruling was consistent with the facts, I could accept it. However, it is not. As a result, I believe it sends another "chilling" message to those who work in the nuclear industry. Therefore, I will be taking additional steps to insure the record is corrected and the facts are known.

Sincerely,

Nancy Kymn Harvin, Ph.D.  
IEEE 2005 Carl Barus Award for Outstanding Service in the Public Interest  
Leaders Worth Following

[REDACTED]

7E

CC: A. Randolph Blough; Lisamarie Jarriel

June 2, 2005

N. Kymn Harvin, Ph.D.

RI-2003-A-0110

Subject: Concerns You Raised to the NRC Regarding Salem/Hope Creek

Dear Dr. Harvin:

On April 5, 2005, after receiving our letter which provided you with the results of the NRC's investigation into your discrimination concern, you provided a response via electronic mail noting that there were at least five factual errors in our letter of April 5, 2005. The asserted errors dealt primarily with the termination of contract work, whether you were offered another job onsite, whether others were brought in to perform your job after your position was eliminated, and who made the decision to move up your last day of employment. After receiving your comments, the Region I Field Office of the NRC Office of Investigations (OI) performed a re-evaluation of the evidence that was developed during the investigation. The results of that evaluation found that your assertions of factual errors were not supported by the evidence obtained, including documentary evidence that was created contemporaneously to a given event (e.g., the actual contracts that were let, including dates, for such services as Organizational Development Activities, etc.). With specific regard to an individual you thought should be contacted by OI and was not, there were logical reasons why this lead was not followed. Specifically, documents obtained during the investigation and evaluated by OI indicated that the need did not exist to interview that individual. We feel that documentary evidence is inherently more reliable than an individual's recollection. In addition, documentary and testimonial evidence are used to put previously recorded statements into context.

OI's investigative approach is to remain independent and objective, while following all logical leads in order to reach a conclusion. We feel that the OI investigation of this matter relied upon sound investigative techniques, and made every effort to ascertain the truth about the reasons your position was eliminated and your last day of employment was moved up, in addition to gathering ancillary evidence that factored into those events.

Based on the reassessment of the evidence developed during the OI investigation in reference to the items you pointed out in your electronic mail response of April 5, 2005, we do not have cause to alter our prior conclusion regarding your discrimination concern.

Again, we thank you for all of the information you have provided to the NRC in support of our reviews of your concerns involving activities at Salem and Hope Creek. If I can be of further assistance at this time, please call me via the NRC Safety Hotline at 1-800-695-7403.

Sincerely,

Original Signed By:

David J. Vito  
Senior Allegation Coordinator

ORIGINAL RECORD COPY

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PA 19406-1415

June 2, 2005

N. Kymn Harvin, Ph.D.

RI-2003-A-0110

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Sincerely,

A handwritten signature in black ink, appearing to read "David J. Vito".

David J. Vito  
Senior Allegation Coordinator