



August 14, 2007

U.S. Nuclear Regulatory Commission Region 1
Materials Security and Industrial Branch
Division of Nuclear Materials Safety Health
475 Allendale Road
King Of Prussia, PA 19406-1415

Attn: Ms. Marie Miller

Re: *Response to Apparent Violations in NRC Inspection*
Report No. 03037435/2007001
License No. 09-31230-01 Docket No. 03037435

Dear Ms. Miller:

Regarding the inspection conducted at our remote office located at the Seminole Tribe Indian Reservation, Clewiston, Florida, we offer the following responses to your comments as requested. In addition, we offer the following general statements that we feel apply to the majority of comments made and the observations and findings noted.

The management team and the RSO at **MC Squared Inc. (MC²)** thoroughly understand the seriousness of the apparent violations and have taken immediate corrective actions and measures to remedy the situation and prevent future violations. The senior management team and the employees of **MC Squared, Inc.** are committed to health and safety and place significant importance on supporting our RSO and providing the tools necessary to achieve safe operations of the nuclear devices. Our current RSO, Chris DiViccaro, was certified as an RSO on September 16, 2005. While Chris is thoroughly familiar with the use of the nuclear density machine from years of technician work, this was his first assignment as an RSO.

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NMSS/RGNI MATERIALS-004

MC Squared, Inc.

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Docket No. 03037435, EA Nos. 07-101, 07-104

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As a result of your inspection, internal procedures have been implemented IMMEDIATELY to ensure the noted violations do not recur. We are confident that these new procedures will allow us to comply with the regulations as required.

Violation 1: "The first apparent violation related to NRC jurisdiction for regulating licensed material at Indian Reservations located in Agreement States and the requirement for an Agreement State licensee to file NRC Form 241 with the NRC in accordance with 10 CFR 150.20(b), prior to engaging in licensed activities at the Indian Reservations. From January 2006 until at least March 12, 2007, you stored and used a portable gauge containing licensed material at two Seminole Indian Tribe Reservations in Florida, and did not file the required NRC Form 241 with the NRC prior to engaging in these activities."

Response 1: MC Squared, Inc. was unaware of the regulation requiring the company to have a separate license under NRC jurisdiction for storing and using a portable gauge on an Indian Reservation. When we were made aware of this regulation and recognized that we were in noncompliance, we immediately began the process to rectify the situation and comply with the regulations. We IMMEDIATELY filed for a Federal license through the NRC and paid the required fees and an NRC Federal license (No. 09-31230-01) was issued on April 5, 2007.

Violation 2: "The second apparent violation occurred when you did not use any physical controls that formed tangible barriers to secure a Troxler Model 3411 portable gauge from unauthorized removal, as required by 10 CFR 30.34(i). The regulation requires that a portable gauge licensee use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the portable gauges are not under control and constant surveillance of the licensee. Failure to secure the gauge as required contributed to the theft of the gauge. The gauge remained in the public domain for more than two months before it was recovered on May 11, 2007."

Response 2: It appears that proper protocol was not followed regarding the use of the minimum two independent physical controls to secure the portable gauge from unauthorized removal. The management team at MC Squared, Inc. completely understands the seriousness of this violation and has taken immediate action to ensure that further violations of this nature do not recur. The following actions were immediately put into place: In addition to the deadbolt locks, bar locks have been added to both entrance doors. The gauge is now

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required to be locked in its approved Type A package, chained to the concrete compressive strength testing machine, with both entrance doors to the trailer dead-bolted and bar-locked when the authorized user is not at the trailer. The following method for storing the portable gauge was instituted immediately following the inspection and will be stringently followed. Random checks by the RSO or a member of the management team will be conducted to ensure that this method is being strictly adhered to. The authorized user has received additional training on the requirements of the storage and handling of a portable gauge. In addition, the authorized user was refreshed on the requirements of the situation, and has been financially reprimanded, a quarterly bonus was withheld, due to the seriousness of the negligent act.

Violation 3: "The third violation, which is not being considered for escalated enforcement, involved the failure to provide an authorized user with hazardous material refresher training at least once every three years as required by 49 CFR 172.702(c)(2)."

Response 3: The authorized user was provided the required Haz-Mat refresher training and had signed paperwork saying she had received it and took a brief test on May 16, 2006. A copy of this is attached for your records. In discussing the event with the authorized user, it appears she thought that this training was required to be provided by a third party, outside of **MC Squared, Inc.** and had not recognized that the training could be provided in-house, as a group presentation or as a self guided refresher course. The authorized user noted that she had not received this training from her previous employer therefore was not aware that it could be performed in-house.

The management team at **MC Squared, Inc.** acknowledges that we could have played a more active role in supporting our RSO and in instituting a system of checks and balances to ensure that these non compliances did not occur. As a result of the incident and your subsequent inspection, we have initiated several procedures and are confident that these new procedures will allow us to comply with the regulations as required.

MC Squared, Inc.

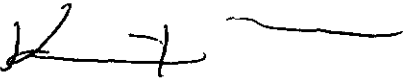
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We appreciate the opportunity to submit this response to you and welcome a re-inspection of our records and facility at your convenience. As noted in the section of Inspection Report No. 03037435/2007001 titled **V. Exit**, all corrective actions were completed by March 29, 2007. In lieu of our responsiveness, the additional information provided, and that this was our first offense, we respectfully request that you consider waiving the stipulated fines. We took immediate corrective measures to rectify the apparent violations, including internal checks and balances to ensure that these violations do not recur.

Should you have any questions or require additional information, please do not hesitate to contact me at your convenience.

Respectfully Submitted,
MC Squared, Inc. (MC²)

For 
Joseph DiStefano, P.E.
Vice President

 RSO
Christopher DiViccaro
Radiation Safety Officer

Attachments: Recurrent (Refresher) training Certification

ASP/jd/cd

HAZMAT

RECURRENT (REFRESHER) TRAINING CERTIFICATION

NRC Policy and Guidance Directive PG2-07,49 CFR 172.704, and CCR 17, 30194(a)(1).
Training Requirements.

Company or Organization MC Squared Date of Training May 16, 2006
Trainer Christopher DiViccario, RSO

The following individuals have received recurrent (refresher) training in compliance with all applicable regulations. Training includes general awareness/familiarization and function-specific training. A record of training materials and content is on file for inspection.

	<u>PRINT NAME</u>	<u>SIGNATURE</u>
1)	<u>Edward Ortiz</u>	<u>[Signature]</u>
2)	<u>Joe Di Stefano</u>	<u>Joe Di Stefano</u>
3)	<u>KERIT SCHMIDT</u>	<u>[Signature]</u>
4)	<u>Chris DiViccario</u>	<u>Chris DiViccario</u>
5)	<u>Ram Huan</u>	<u>Ram Huan</u>
6)	<u>Amanda Pereira</u>	<u>ABP</u> 6-13-07
7)	<u>Bradlee Winger</u>	<u>Bradlee Winger</u> 6-13-07
8)	<u>_____</u>	<u>_____</u>
9)	<u>_____</u>	<u>_____</u>
10)	<u>_____</u>	<u>_____</u>

RSO: Retain this certification in your records for inspection upon request. Also, retain a record of training materials and content.

Chris DiViccario
Radiation Safety Officer