[7590-01-P]

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	IA-07-027
Mr. Jon Brumer	)	
	)	
	)	

ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. Jon Brumer was employed as a security officer by The Wackenhut Corporation, which provided security services at Florida Power & Light Company's Turkey Point Nuclear Plant (Licensee) during August 2005 through February 2006. Licensee is the holder of License No. DPR-31 and DPR-41, issued by the Nuclear Regulatory Commission (NRC or Commission) on July 19, 1972, and April 10, 1973, respectively, pursuant to 10 CFR Part 50. The license authorizes the operation of Turkey Point Nuclear Plant (facility) in accordance with the conditions specified therein. The facility is located on the Licensee's site in Florida City, Florida.

II

On February 16, 2006, the NRC initiated an Augmented Inspection Team on-site inspection to review security-related matters at the facility. Subsequently, an investigation was initiated by the NRC's Office of Investigations (OI) during February 2006, in response to concerns identified by the NRC during the on-site inspection. During the inspection and investigation, the NRC became aware of an incident involving a firing pin that had been removed from a contingency response weapon and was subsequently determined to be broken. NRC inspection confirmed

that the missing firing pin rendered the weapon non-functional, and as a result, FPL was determined to be in violation of 10 CFR Part 73, Physical Security Plan Section 4.1, and Security Force Instruction 2404, Section 2.3, Revision 21.

On February 19, 2006, Mr. Jon Brumer provided a transcribed statement to OI regarding his involvement in the breaking of a firing pin that was later determined to be incomplete and inaccurate in a material respect. Specifically, Mr. Jon Brumer initially denied having any knowledge associated with the broken firing pin event. Mr. Jon Brumer later recanted and admitted removing and breaking the firing pin. This information was material to the NRC as it was used to inform the timing and nature of regulatory actions related to a serious security matter at FPL's facility. As a result, Mr. Jon Brumer's actions were determined to be in violation of 10 CFR 50.5(a)(2), which states, in part, that an employee of a contractor may not deliberately submit to the NRC, a licensee, or a licensee's contractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

III

Based on the above, the NRC concluded that Mr. Jon Brumer, a former employee of The Wackenhut Corporation, has engaged in deliberate misconduct that has caused the Licensee to be in violation of 10 CFR Part 73, Physical Security Plan Section 4.1, and Security Force Instruction 2404, Section 2.3, Revision 21. The NRC must be able to rely on the Licensee, its contractors, and its employees to comply with NRC requirements. Mr. Jon Brumer's violation of 10 CFR 50.5(a)(1), which caused the Licensee to be in violation of 10 CFR Part 73 and the Physical Security Plan, and his additional violation of 10 CFR 50.5(a)(2), have raised serious doubts as to whether he can be relied on to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, and that common defense and security will be achieved if Mr. Jon Brumer were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Jon Brumer be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order. Additionally, Mr. Jon Brumer is required to notify the NRC of his first employment in NRC-licensed activities for a period of three years following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Jon Brumer's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 104b, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Mr. Jon Brumer is prohibited for five years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Jon Brumer is currently involved with another licensee in performing NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. For a period of three years after the five year period of prohibition has expired, Mr. Jon Brumer shall, within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Mr. Jon Brumer shall include a statement of his commitment to compliance with regulatory requirements and the basis for why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Jon Brumer of good cause.

V

In accordance with 10 C.F.R. 2.202, the Mr. Jon Brumer must, and any other person adversely affected by this Order may, submit an answer to this Order within 20 days of its issuance. In addition, the Mr. Jon Brumer and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for

extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension. A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Fed. Reg. 49,139 (Aug. 28, 2007). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below. To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at http://www.nrc.gov/site-help/e-submittals/install-viewer.html. Information about applying for a digital ID certificate also is available on NRC's public website at http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at http://www.nrc.gov/site-help/e-submittals.html. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon

receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at http://www.nrc.gov/site-help/e-submittals.html or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10C.F.R.2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at http://ehd.nrc.gov/EHD_Proceeding/home.asp, unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application. Participants are requested not to include copyrighted materials in their works.

If a person other than the Mr. Jon Brumer requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 C.F.R. 2.309(d).

If a hearing is requested by Mr. Jon Brumer or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Jon Brumer, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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Cynthia A. Carpenter, Director
Office of Enforcement

Dated this 22nd day of January 2008