

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Andrew Siemaszko Enforcement Action

Docket Number: IA-05-021-EA
ASLBP Number: 05-839-02

DOCKETED
USNRC

July 10 2009 (11:00am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Location: (telephone conference)

Date: Friday, July 10, 2009

Work Order No.: NRC-2968

Pages 312-318

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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ENFORCEMENT PROCEEDING

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IN THE MATTER OF : Docket No. IA-05-021-EA
ANDREW SIEMASZKO : ASLBP No. 05-839-02
(Enforcement Action):

_____:

Friday,

July 10, 2009

Via Teleconference

The above-entitled matter came on for
hearing, pursuant to notice, at 11:00 a.m.

BEFORE:

LAWRENCE G. McDADE, Chair

E. ROY HAWKENS, Administrative Judge

NICHOLAS G. TRIKOUROS, Administrative Judge

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P R O C E E D I N G S

(11:01:01 a.m.)

JUDGE McDADE: Hi, good morning. This is Lawrence McDade. With me is Judge Hawkens and Judge Trikouros. For the record, is a representative of the Staff present?

MS. SEXTON: Yes, Your Honor. This is Kimberly Sexton, and with me are Cindy Carpenter and Nick Hilton.

JUDGE McDADE: And representing Mr. Siemaszko?

MS. GARDE: Billie Garde.

JUDGE McDADE: Okay. Good morning. We're ready to proceed. Let me just for the record indicate that this is the matter of Andrew Siemaszko. It's ASLPB 05-839-02. Basically, this is the enforcement action. It was initiated on April 21st, 2005 with an enforcement order issued to Mr. Siemaszko. Mr. Siemaszko requested a hearing on May 18th, 2005, or May 19th, rather, in 2005. The Board granted Mr. Siemaszko's request for a hearing.

Subsequently, there was an amendment to the order that was issued on October 17th, 2006. Mr. Siemaszko also answered that amendment, and requested a hearing. It was consolidated for purposes of a

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1 single action.

2 This matter has been stayed pending the
3 conclusion of a criminal matter. That criminal matter
4 has reached the point of a conviction of Mr. Siemaszko
5 and a sentencing in the Northern District of Ohio. I
6 understand that an appeal has been filed by that
7 action, and the appeal is pending in the U.S. Court of
8 Appeals for the 6th Circuit.

9 Ms. Garde, is that correct? Is the appeal
10 still pending in the 6th Circuit?

11 MS. GARDE: It is, Your Honor. We filed
12 our initial brief. The government got an extension,
13 so their brief, which was due July 13th, now will not
14 be filed until early August. And then, of course,
15 we'll have an opportunity for reply. No decision yet
16 about oral argument, and no setting a date for such.

17 JUDGE McDADE: Okay. We have been advised
18 the parties have entered into settlement discussions
19 and have reached a settlement agreement. A draft of
20 that settlement agreement was furnished to us signed
21 by the parties. Are you both in agreement with the
22 terms of that settlement agreement?

23 MS. GARDE: I am, Judge, on behalf of Mr.
24 Siemaszko, and Mr. Siemaszko has read and agreed to
25 the terms.

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1 JUDGE McDADE: And the Staff?

2 MS. SEXTON: Yes, Your Honor.

3 JUDGE McDADE: Okay. Does the Staff have
4 anything further to add or to say with regard to that
5 settlement agreement at this point?

6 MS. SEXTON: No, Your Honor.

7 JUDGE McDADE: Does Mr. Siemaszko?

8 MS. GARDE: No, Your Honor.

9 JUDGE McDADE: Okay. One thing I would
10 want to note for the record, there is an appeal
11 pending. However, in the event that this settlement
12 agreement is approved by the Board and entered, we
13 would be dismissing this administrative enforcement
14 proceeding. Therefore, regardless of what happened
15 with the appeal, whether the appeal was successful or
16 unsuccessful, it would have no impact on this
17 proceeding. This proceeding would be over, and the
18 terms of the order as proposed to be modified by the
19 settlement agreement would be in force. Does Mr.
20 Siemaszko understand that, Ms. Garde?

21 MS. GARDE: Yes, he does.

22 JUDGE McDADE: And he's in full agreement
23 with that?

24 MS. GARDE: Yes, he is.

25 JUDGE McDADE: And that's the Staff's

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1 understanding, as well?

2 MS. SEXTON: Yes, Your Honor.

3 JUDGE McDADE: Okay. The Board is of a
4 mind to approve the settlement agreement as written by
5 the parties, and we will be issuing an order to that
6 effect which approves the settlement agreement, and
7 would then dismiss this enforcement proceeding.

8 Is there anything else from the Staff's
9 standpoint that needs to be taken care of in this
10 matter?

11 MS. SEXTON: No, Your Honor.

12 JUDGE McDADE: From Mr. Siemaszko's
13 standpoint?

14 MS. GARDE: No, Your Honor.

15 JUDGE McDADE: Okay. That being the case,
16 the settlement agreement is approved. This matter is
17 dismissed, and an order will be issued promptly.
18 Thank you very much.

19 MS. GARDE: Thank you, and thank you all
20 for granting the extension last week so I could deal
21 with the medical emergency I was dealing with in
22 Wisconsin.

23 JUDGE McDADE: You're very welcome, and we
24 hope things have worked in that as well as they could,
25 and I want to thank all the parties for the

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1 professionalism that everybody has shown in this
2 matter. And that being said, this matter is now
3 concluded. Thank you.

4 MS. SEXTON: Thank you, Your Honor.

5 MS. GARDE: Thank you very much.

6 JUDGE McDADE: Okay.

7 (Whereupon, the proceedings went off the
8 record at 11:05 a.m.)
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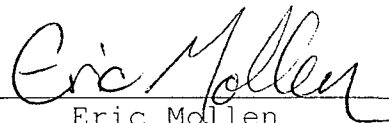
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in the matter of: Andrew Siemaszko

Name of Proceeding: Enforcement Action

Docket Number: IA-05-021-EA

Location: Teleconference

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Eric Mollen
Official Reporter
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