

April 17, 2012

EA-11-254

Mr. David A. Walker, President  
ABSG Consulting Inc.  
16855 Northchase Dr.  
Houston, TX 77060

SUBJECT: CONFIRMATORY ORDER (EFFECTIVE IMMEDIATELY)  
(NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2010-050)  
ABSG CONSULTING, INC.

Dear Mr. Walker:

The enclosed confirmatory order is being issued to ABSG Consulting Inc. (ABSG) as a result of a successful alternative dispute resolution (ADR) session. The enclosed commitments were made by ABSG as part of a preliminary settlement agreement between ABSG and the U.S. Nuclear Regulatory Commission (NRC) concerning an apparent violation of NRC requirements as discussed in our letter dated January 17, 2012.

In the subject letter, the NRC provided ABSG with the results of an investigation report conducted by the NRC's Office of Investigations (OI Case No. 1-2010-050). The report identified an apparent violation of NRC requirements. The apparent violation involved whether a former ABSG employee was the subject of employment discrimination in violation of 10 CFR 50.7, "Employee protection." Our letter also informed ABSG that the apparent violation was being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy.

In its January 17, 2012, letter, the NRC offered ABSG a choice to: (1) provide a written response, (2) attend a pre-decisional enforcement conference, or (3) request alternative dispute resolution (ADR) with the NRC as part of its Post-investigation ADR program. In response, ABSG chose to participate in ADR in an effort to resolve the matter. The ADR mediation session was held on March 12, 2012, in Arlington, VA, and resulted in a preliminary settlement agreement. The terms and conditions of that settlement agreement are set forth in Section IV of the enclosed confirmatory order.

Prior to issuance of the NRC's January 17, 2012, letter, ABSG conducted its own internal investigation of the circumstances leading to the termination of the employment of the individual. The NRC recognizes that although ABSG does not admit to any apparent retaliation, ABSG nonetheless took several actions to reinforce its anti-retaliation policies, including: (1) issuance of a letter to the manager involved with the termination of the individual reiterating ABSG's commitment to its non-retaliation policies; (2) directing ABSG's HR Manager of Employee Relations to draft an expanded anti-retaliation policy for inclusion in the Company's Policy and Benefits Guide; and (3) directing ABSG's Director of Compliance to draft an expanded anti-retaliation policy for inclusion in the Company's Code of Ethics.

As a result of the settlement agreement from the ADR mediation session, ABSG agreed to take a number of additional actions. Those actions include: (1) reinforcing through a written communication from the President ABSG the Company's policy regarding employees' right to raise concerns; (2) developing anti-retaliation training for all ABSG U.S. Nuclear Utilities Market Sector employees which shall include those items identified in 10 CFR 50.7, define key terms, and provide examples of discriminatory practices; (3) publishing, as part of its on-line newsletter, an article concerning the protections afforded by 10 CFR 50.7; and (4) establishing a process to conduct a secondary review of all proposed adverse actions (including written reprimand or above, but excluding reductions-in-force and other ordinary layoffs) for any of its U.S. Nuclear Utilities Market Sector employees who have engaged in protected activities.

In recognition of ABSG's prior actions and in exchange for the additional actions ABSG agreed to take as described in the enclosed confirmatory order, the NRC staff is exercising enforcement discretion and will not pursue further action relating to this matter which may have otherwise resulted in the issuance of a Notice of Violation with a base civil penalty. Because of ABSG's actions, the NRC has concluded that the public health and safety is assured to a greater degree than it would have been pursuant to traditional enforcement. Be advised that the NRC staff will evaluate the implementation of the confirmatory order during future inspections to evaluate the implementation of your commitments.

We have enclosed a confirmatory order (effective immediately) to confirm the actions made as part of the settlement agreement. As evidenced by your signed "Consent and Hearing Waiver" Form (copy enclosed) dated April 17, 2012, you agree to the issuance of the enclosed confirmatory order.

Pursuant to Section 223 of the Atomic Energy Act of 1954, as amended, any person who willfully violates, attempts to violate, or conspires to violate, any provision of the enclosed confirmatory order shall be subject to criminal prosecution as set forth in that section. Violation of the confirmatory order may also subject the person to civil monetary penalties.

You are not required to respond to this letter. However, if you choose to provide a response, please provide it to me within 30 days at U.S. Nuclear Regulatory Commission, Mail Stop O4A15A, 11555 Rockville Pike, Rockville, MD 20852. Questions concerning the enclosed confirmatory order should be addressed to Russell Arrighi, NRC Office of Enforcement, who can be reached at 301-415-0205 or via e-mail at [Russell.Arrighi@nrc.gov](mailto:Russell.Arrighi@nrc.gov).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC will also include this letter, and the enclosed confirmatory order, on its website at [www.nrc.gov](http://www.nrc.gov). Your response, if you choose to provide one, will also be made available electronically for public inspection in the NRC Public Document Room or ADAMS.

Sincerely,

***/RA/***

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

1. Confirmatory Order
2. Copy of Consent and Hearing  
Form dated April 17, 2012
3. NRC Regulatory Issue Summary 2005-18  
Guidance for Establishing and Maintaining  
a Safety Conscious Work Environment

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Sincerely,

**/RA/**

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

- 3. Confirmatory Order
- 4. Copy of Consent and Hearing Form dated April 17, 2012
- 3. NRC Regulatory Issue Summary 2005-18 Guidance for Establishing and Maintaining a Safety Conscious Work Environment

cc w/out encl:

Sarah Barton, General Counsel for  
ABSG Consulting Inc.  
Mr. Michael Chamberlin, Partner  
FULBRIGHT & Jaworski L.L.P

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