

October 28, 2013

IA-13-024

Mr. Landon E. Brittain
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

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

Dear Mr. Brittain:

The enclosed Order prohibiting involvement in U.S. Nuclear Regulatory Commission (NRC) licensed activities (Effective Immediately) is being issued to you as a result of the NRC staff's conclusions based on the results of an NRC investigation into the circumstances surrounding an aggravated vehicular hijacking which occurred on May 9, 2012, and in which you were implicated as an accomplice.

On June 6, 2012, the NRC's Office of Investigations (OI), Region III Field Office, initiated an investigation to determine if you, now a former Dresden Nuclear Power Station (Dresden Station) senior reactor operator (SRO), an equipment operator (EO), and/or any other personnel at the Dresden Station knew that another, now former Dresden Station SRO planned to commit a violent crime off-site and willfully failed to report that SRO for aberrant behavior. The investigation was completed on March 29, 2013, and was documented in OI Report No. 3-2012-020.

Based on the results and other information developed during that investigation, the NRC concluded that you were approached and recruited by a second SRO to assist in an armored car robbery. Your failure to report this aberrant behavior to Exelon management is a violation of 10 CFR 73.56(f)(3). Specifically, 10 CFR 73.56(f)(3) states, in part, that individuals who are subject to an access authorization program under this section shall at a minimum, report any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others to the reviewing official, his or her supervisor, or other management personnel designated in their site procedures. At the time you became aware of this individual's behavior, you had access authorization to the Dresden Station, received Behavioral Observation training and had the ability to recognize this questionable behavior and should have reported the other employee as required by procedure.

The NRC is also aware that local authorities have charged you with a number of criminal offenses, including aggravated vehicular hijacking, vehicular hijacking, and obstruction of justice.

The NRC has concluded that your failure to report the questionable behavior in accordance with 10 CFR 73.56 and your apparent participation in criminal activities related to both the carjacking and the planning of an armored car robbery have demonstrated a lack of trustworthiness.

For this reason, the NRC lacks the requisite reasonable assurance that you can perform licensed activities in compliance with the Commission's requirements and is issuing you this enclosed Prohibition Order. This action is necessary to provide the NRC with reasonable assurance that the protection of public health and safety will not be compromised by your involvement in NRC-licensed activities. This Order will be effective on the day of issuance.

In accordance with 10 CFR 2.202, you are required to provide an answer to this Order within 30 days from the date of this Order. Failure to comply with the provisions of this Order may result in further civil enforcement action. 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 this Order shall be subject to criminal prosecution as set forth in that section. Violation of this Order may also subject you to civil monetary penalty.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your answer to the Order will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/readingrm/adams.html>. Therefore, to the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/reading-rm/doccollections/enforcement/actions>. In addition, this letter will be maintained by the Office of Enforcement in an NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacysystems.html>.

Questions concerning the enclosed Order should be addressed to Gerry Gulla of my staff, who can be reached at 301-415-2872.

Sincerely,

/RA/

Roy P. Zimmerman, Director
Office of Enforcement

Enclosure:
As stated

cc w/enclosure: State of Illinois

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Enclosure:
As stated

cc w/enclosure: State of Illinois

DISTRIBUTION: See next page

ADAMS ACCESSION No: (Package) ML13298A529 Order: ML13298A386

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DATE	10/24/13	10/24/13	10/24/13	10/24/13	10/25/13
OFFICE	RIII	NRR: DIRS: D	NSIR: DSO: D	OGC: MLE: D	OE: D
NAME	CPederson /RA by ABoland for/	HNieh	PHolahan	CScott /RA by CHair for/	RZimmerman
DATE	10/25/13	10/3/13	10/25/13	10/24/13	10/28/13

OFFICIAL RECORD COPY

¹ J. Heck concurrence received via email on October 24, 2013.

Letter to Landon E. Brittain from Roy P. Zimmerman dated October 28, 2013

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

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Landon E. Brittain

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IA-13-024

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

I

Landon E. Brittain was formerly employed as a senior reactor operator (SRO) at the Exelon Dresden Nuclear Power Station (Dresden Station). Mr. Brittain was the holder of SRO license No. SOP-32151 issued by the Nuclear Regulatory Commission (NRC) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55. The license authorized Mr. Brittain to manipulate the controls of the Dresden Station, Facility License Nos. DPR-19 and DPR-25, located in Morris, Illinois. Dresden Station requested the termination of Mr. Brittain's license, and on June 25, 2012, the license was terminated by the NRC.

II

An investigation was initiated by the NRC Office of Investigations (OI) on June 6, 2012, to determine if Mr. Brittain, an equipment operator, or other personnel had knowledge of another

SRO planning to commit a violent crime off-site and willfully failed to report that SRO to management for aberrant behavior. This investigation revealed that in mid-July 2011, Mr. Brittain, along with another SRO, began planning and attempted to recruit other resources to assist in an armored car robbery.

However, on May 9, 2012, the other SRO was apprehended by police after hijacking a car at gunpoint. That SRO was later released on bail and apparently fled the country. Although at the time Mr. Brittain was not charged for the crime, he fled the country, was later apprehended in Venezuela, and has been extradited to the United States. As of the date of this Order, Mr. Brittain is under indictment for aggravated vehicular hijacking, vehicular hijacking, and obstruction of justice.

Section 73.56(f)(3) of 10 CFR requires, in part, that individuals who are subject to an access authorization program, at a minimum, report any concerns arising from behavioral observation, including, but not limited to, concerns related to any questionable behavior patterns or activities of others to the reviewing official, his or her supervisor, or other management personnel designated in their site procedures. Exelon Procedure, SY-AA-103-513, "Behavioral Observation," Step 3.2.2 requires, in part, that individuals with unescorted access report to their supervisor when an individual is exhibiting unusual or aberrant behavior. Despite these requirements, Mr. Brittain failed to report his observations regarding his coworker's unusual or aberrant behavior to his supervisor.

III

Due to the failure to report the questionable behavior of his fellow employee, and the egregiousness of Mr. Brittain's apparent criminal activities related to the carjacking, and the planning of such activities with his fellow employee, and pursuant to Sections 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, the NRC has determined that Mr. Brittain has demonstrated a lack of trustworthiness that falls below the standard necessary to promote the common defense and security, protect health, or to minimize danger to life or property. 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 if Mr. Brittain were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Brittain be prohibited from any involvement in NRC-licensed activities until such time that he can provide the NRC that reasonable assurance exists, that licensed activities can be conducted in compliance with the Commission's requirements. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Brittain'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 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Landon E. Brittain is prohibited from engaging in, supervising, directing, or in any other way conducting 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 in the NRC's jurisdiction pursuant to the authority granted by 10 CFR 150.20.
2. If Landon E. Brittain is currently involved with 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. The Director, Office of Enforcement, will consider lifting the prohibitions set forth in this Order only upon an adequate showing by Landon E. Brittain of corrective actions sufficient to demonstrate reasonable assurance that he will comply with NRC requirements. To attempt such a showing, Mr. Brittain must participate in a discussion with NRC. To schedule a meeting, Mr. Brittain may contact the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Brittain of good cause.

In accordance with 10 CFR 2.202, Mr. Brittain must submit a written answer to this Order under oath or affirmation within 30 days of the date of this Order. Mr. Brittain's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. Any person adversely affected by this Order may submit a written answer within 30 days from the date of this Order. In addition, Mr. Brittain and any other person adversely affected by this Order may request a hearing on this Order within 30 days from the date of this Order. 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 made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012), codified in pertinent part at 10 CFR Part 2, Subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at (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 proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a web browser plug-in from the NRC web site. Further

information on the web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene through the EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email 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 documents 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/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at

MSHD.Resource@nrc.gov, or by a toll-free call at (866) 672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 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. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket, which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission or the 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, unless an NRC regulation or other law requires submission of such information. 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 submission.

If a person other than Mr. Brittain 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 CFR 2.309(d) and (f).

If a hearing is requested by a licensee 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. 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 30 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.

Dated at Rockville, Maryland, this 28th day of October 2013

For the Nuclear Regulatory Commission

/RA/

Roy P. Zimmerman, Director
Office of Enforcement