

May 13, 2014

IA-13-012

Mr. Armando N. Clavero  
c/o Mr. Roman Groysman, Esq.  
101 Northeast Third Avenue  
Suite 1100  
Ft. Lauderdale, FL 33301

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Dear Mr. Clavero:

The enclosed Order is being issued because the U. S. Nuclear Regulatory Commission (NRC) has determined that you, as co-owner, president (per your Florida license) of University Nuclear and Diagnostics (UND), LLD and the Chief Technical Officer in charge of the nuclear medicine technologists (NMTs) for UND engaged in deliberate misconduct while working as a contractor for Bradley D. Bastow, D. O., an NRC licensee. Specifically, the NRC determined that you: (1) deliberately did not perform a survey meter calibration, provided a falsified record of the survey meter calibration, and provided inaccurate information about performing the survey meter calibration both during the NRC investigation and during the predecisional enforcement conference; (2) deliberately did not perform a sealed source survey in October or November 2011 and provided falsified records of a sealed source survey on a date when there was no survey meter onsite; and (3) deliberately did not perform an annual review and provided a falsified record of an annual review containing erroneous information, including that surveys were performed when a survey meter was not onsite. You also did not ensure that Dr. Bastow's office had a working survey meter during the nearly eight week period when a UND NMT had sent Dr. Bastow's survey meter to UND for calibration and did not ensure that records provided to Dr. Bastow's office were complete and accurate in all material respects.

Your deliberate actions caused Bradley D. Bastow, D. O. to be in violation of NRC regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 30.9, 35.24, 35.61, and 35.67, and its license conditions. On July 1, 2013, the NRC and Dr. Bastow met in an Alternative Dispute Resolution (ADR) mediation session. The parties reached a preliminary settlement agreement which was later finalized in a Confirmatory Order dated September 3, 2013. A copy of the Confirmatory Order to Dr. Bastow is available in the NRC's Agencywide Documents Access and Management System (ADAMS) at accession number [ML13241A320](#). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

The NRC also sent letters to both you and UND, outlining the information obtained during the NRC investigation. These letters are also available in ADAMS at accession number [ML13108A148](#) for the letter to UND and accession number [ML13109A537](#) for the letter to you. On June 20, 2013, both you and a representative from UND met with the NRC in predecisional enforcement conferences, together and then in an individual conference. At both conferences

there was a Spanish interpreter, who was available to you if you had difficulty understanding the NRC's questions or in expressing an adequate response. Following the conferences, on July 15, 2013, you provided the NRC with additional information, received via electronic and regular mail. This document is available in ADAMS at accession number [ML13212A245](#). On August 9, 2013, the NRC provided both you and UND with letters outlining the information discussed at the conferences and informing you that the NRC was continuing to evaluate the information. These letters can be found in ADAMS at accession numbers [ML13226A459](#) for the letter to UND and [ML13226A479](#) for the letter to you.

Based on information discussed at the conference, the NRC performed additional investigation into whether a second survey meter existed at Dr. Bastow's office during the time period from October 5 to November 28, 2011, when the normal survey meter was not in the office. This supplemental investigation included additional interviews with current and former UND employees, and was completed on February 4, 2014. Based on this investigation, the NRC determined that your deliberate actions, and the actions of others, resulted in UND being in violation of 10 CFR 30.10. A synopsis of the NRC's review into the issue of whether a second meter existed, and other issues left unresolved at the conference, was provided to UND with a Notice of Violation and is available in ADAMS at accession number [ML14125A346](#).

The NRC determined that because your actions were deliberate, they constituted a violation of NRC's rule prohibiting deliberate misconduct, 10 CFR 30.10. This requirement prohibits, in part, contractors of an NRC license from engaging in deliberate misconduct that causes an NRC licensee to be in violation of NRC regulations.

Because of the above actions, the NRC lacks the requisite assurance that you are willing to comply with NRC requirements and has determined that you should be prohibited from engaging in NRC licensed activities. Consequently, for a period of three years, effective 30 days from the date of issuance (as defined in Section V of the Order), you will be prohibited from engaging in NRC-licensed activities. This means that during the three-year prohibition period you cannot perform, assist, supervise, or have oversight over any NRC licensed activities in any areas under NRC jurisdiction, including but not limited to, nuclear medicine technology, performing duties as a radiation safety officer, or hold title to NRC-licensed materials. This includes work under reciprocity in NRC jurisdiction.

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 the person to civil monetary penalty.

You are required to respond to the enclosed Order within 30 days of its issuance and should follow the instructions specified in the enclosed Order when preparing your response. If you have additional information that you believe the NRC should consider, you may provide it in your response to the Order. The NRC will use your response, in part, to inform its future enforcement decisions as necessary to ensure compliance with regulatory requirements.

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), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. 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/doc-collections/enforcement/actions/>.

Instead of providing a response to the Order, you may request Alternative Dispute Resolution (ADR) with the NRC in an attempt to resolve this issue. This request must also be made within 30 days of the letter's issuance. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. Additional information concerning the NRC's program is described in NUREG/BR-0317 provided in Enclosure 2 and can also be obtained from <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>.

The Institute on Conflict Resolution at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact the Institute on Conflict Resolution at (877) 733-9415 if you are interested in pursuing resolution of this issue through the ADR program. If you decide to pursue ADR, please also contact Steven Orth, Enforcement Officer, at (630) 810-4373 within 30 days. You may also contact Mr. Orth for additional information about the ADR process.

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." This system, which is not publicly-accessible, includes all records pertaining to individuals who are being or have been

A. Clavero

-4-

considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, may be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

*/RA/*

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in  
NRC-Licensed Activities
2. NUREG/BR-0317, Rev. 1, Alternative  
Dispute Resolution

cc w/encls: State of Michigan  
State of Florida  
All Agreement States

considered for enforcement action, whether such action was taken or not. The NRC-3 system notice, which provides detailed information about this system of records, may be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Sincerely,

*/RA/*

Roy P. Zimmerman, Director  
Office of Enforcement

Enclosures:

1. Order Prohibiting Involvement in NRC-Licensed Activities
2. NUREG/BR-0317, Rev. 1, Alternative Dispute Resolution

cc w/encls: State of Michigan  
State of Florida  
All Agreement States

Distribution:

See next page  
Publicly available

ADAMS Package: ML14126A742; Letter: ML14126A770

\*Concurred by email

OFFICE	RIII	RIII	RIII	RIII	RIII
NAME	PLougheed*	AMcCraw*	PLouden*	JHeck*	SOrth
DATE	04/03/14	04/03/14	04/04/14	04/04/14	04/08/14
OFFICE	RIII	D:FSME	D:OGC	BC:OE	D:OE
NAME	CPederson	MBurges*	CHair	NHilton	RZimmerman
DATE	04/09/14	04/22/14	04/05/14	05/08/14	05/13/14

**OFFICIAL RECORD COPY**

Letter to Armando N. Clavero from Roy P. Zimmerman dated May 13, 2014

SUBJECT: ORDER PROHIBITING INVOLVEMENT IN NRC-LICENSED ACTIVITIES

Distribution:

RidsSecyMailCenter  
OCADistribution  
Michael Weber  
Roy Zimmerman  
Nick Hilton  
Thomas Marenchin  
Cynthia Pederson  
Darrell Roberts  
Marvin Itzkowitz  
Catherine Scott  
Christopher Hair  
Brian Holian  
Pamela Henderson  
Michele Burgess  
Brice Bickett  
Carolyn Evans  
Vivian Campbell  
Holly Harrington  
Hubert Bell  
Cheryl McCrary

Robert Goetz  
David DAbate  
Patrick Loudon  
Jack Giessner  
Aaron McCraw  
MIB Inspectors  
Steven Orth  
Allan Barker  
Harral Logaras  
James Lynch  
Viktoria Mitlyng  
Prema Chandrathil  
Patricia Lougheed  
Paul Pelke  
Magdalena Gryglak  
Sarah Bakhsh  
Patricia Buckley  
Carmen Olteanu  
RidsOemailCenter  
OEWEB Resource