

RELATED CORRESPONDENCE

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USNRC

May 19, 1998

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
MAGDY ELAMIR, M.D.)	IA 97-070
)	
Newark, New Jersey)	

NRC STAFF'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS AND ADMISSIONS

INTRODUCTION

Pursuant to 10 C.F.R. §§ 2.740b and 2.741 of the Commission's regulations, the NRC staff (Staff) hereby requests that Dr. Elamir respond to the following interrogatories, and produce for inspection and copying, the documents requested. In addition, pursuant to 10 C.F.R. § 2.742 of the Commission's regulations, the Staff hereby files its requests for admissions of the truth of the matters specified below in the Request For Admissions portion of this document.

Each interrogatory shall be answered separately and fully, in writing, and under oath or affirmation and shall include all pertinent information available to Dr. Elamir based upon his personal knowledge. The production of the documents requested herein shall take place at the Office of General Counsel, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Room O-15-B-18, Rockville, Maryland, unless other arrangements are made, by agreement, in this regard. Pursuant to 10 C.F.R. § 2.740b(b), Dr. Elamir must serve a copy of the answers and objections to the interrogatories upon the Staff within 14 days after service of the interrogatories.

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In addition, the answers must be filed with the Secretary of the Commission and must be served on the presiding officer. 10 C.F.R. § 2.740b(a). With respect to the Staff's request for production of documents, 10 C.F.R. § 2.741(d) provides that the party upon whom such a request is served shall serve upon the party submitting the request a written response within 30 days after the service of the request. Section 2.742(b) provides that each requested admission shall be deemed made unless, within a time designated by the presiding officer or the Commission, and not less than ten days after service of the request or such further time as may be allowed on motion, the party to whom the request is directed serves on the requesting party its response as provided in section 2.742.

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

INTERROGATORY 1

Identify any person Dr. Elamir intends to call as a witness at the evidentiary hearing in this proceeding.

INTERROGATORY 2

With respect to any person listed in response to Interrogatory 1, set forth the subject matter and facts to which that person will testify.

INTERROGATORY 3

With respect to any person listed in response to Interrogatory 1, state the individual's last known residential address, last known business address, and telephone numbers at those addresses.

INTERROGATORY 4

Identify each document Dr. Elamir intends to rely on in this proceeding by setting forth its title; its subject matter; its date; its author; its addressee; its present location and present

custodian.¹

INTERROGATORY 5

As to each document listed in response to Interrogatory 4, state whether or not Dr. Elamir intends to seek to move each such document into the record as evidence in this proceeding pursuant to 10 C.F.R. § 2.743.

INTERROGATORY 6

As to each document listed in response to Interrogatory 4, state what fact or opinion Dr. Elamir intends to establish if the document is admitted into evidence.

REQUEST FOR PRODUCTION OF DOCUMENTS 1

Provide copies of the documents identified in response to Interrogatory 4.

INTERROGATORY 7

In February 1996, did Dr. Stephen Baker, Chairman of the Department of Radiology at the University of Medicine and Dentistry of New Jersey (UMDNJ) suggest to Dr. Elamir that Dr. Moskowitz could serve as Newark Medical Associates' radiation safety officer (RSO) and/or authorized user on the NRC license?

INTERROGATORY 8

If the answer to Interrogatory 7 is yes, please provide the date of the communication, the place of the making and place of receipt of the communication, the type and means of the communication, the substance of the communication, and the names of each person present during, participating in, or receiving the communication.

REQUEST FOR PRODUCTION OF DOCUMENTS 2

Provide copies of any documents concerning any communication referenced in response

¹ "Document" as used herein shall mean any written matter, whether produced, reproduced or stored on paper, cards, tapes, disks, belts, charts, film, computer storage devices, or any other medium and shall include, without limitation, matter in the form of books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, training materials, records, correspondence, diaries, plans, diagrams, drawings, periodicals, lists, telephone logs, minutes, photographs, and any published materials.

to Interrogatory 7.

INTERROGATORY 9

Between October 1996 and February 6, 1997, did Aharon Ben-Haim represent to Dr. Elamir that Aharon Ben-Haim and the Newark Medical Associates staff were authorized, through a delegation of authority from Dr. Moskowitz, to engage in NRC-licensed activities?

INTERROGATORY 10

If the answer to Interrogatory 9 is yes, please provide the date of the communication, the place of the making and place of receipt of the communication, the type and means of the communication, the substance of the communication, and the names of each person present during, participating in, or receiving the communication.

REQUEST FOR PRODUCTION OF DOCUMENTS 3

Provide copies of any documents concerning any communication referenced in response to Interrogatory 9.

INTERROGATORY 11

Did Dr. Elamir have an oral agreement with Dr. Baker for the services of an authorized user and/or RSO at Newark Medical Associates?

INTERROGATORY 12

When negotiations stopped in mid 1996 regarding the draft agreement between UMDNJ and Irvington, why did Dr. Elamir continue to believe that Dr. Moskowitz would be the RSO for the Newark Medical Associates' NRC license?

INTERROGATORY 13

Did Dr. Elamir tell Aharon Ben-Haim to give instructions to Lubica Smoligova for the ordering of radiopharmaceuticals?

INTERROGATORY 14

Did Dr. Elamir tell Aharon Ben-Haim that Lubica Smoligova would order radiopharmaceuticals?

INTERROGATORY 15

If the answer to Interrogatory 13 or Interrogatory 14 is yes, please provide the date of the communication, the place of the making and place of receipt of the communication, the type and means of the communication, the substance of the communication, and the names of each person present during, participating in, or receiving the communication.

REQUEST FOR PRODUCTION OF DOCUMENTS 4

Provide copies of any documents concerning any communication referenced in response to Interrogatory 13 or Interrogatory 14.

INTERROGATORY 16

Did Dr. Elamir procure the services of Dr. Wasserman in November 1996 for interpreting bone scans? If so, why?

INTERROGATORY 17

If the answer to Interrogatory 16 is yes, please provide the date of any communications regarding the procurement of such services, the place of the making and place of receipt of the communications, the type and means of the communications, the substance of the communications, and the names of each person present during, participating in, or receiving the communications.

REQUEST FOR PRODUCTION OF DOCUMENTS 5

Provide copies of any documents concerning any communication referenced in response to Interrogatory 16.

INTERROGATORY 18

If the answer to Interrogatory 16 is yes, why did Dr. Elamir not use Dr. Moskowitz, the authorized user named on the NRC license, for the purpose of interpreting bone scans?

INTERROGATORY 19

Did Dr. Elamir ask Dr. Wasserman to serve as NMA's RSO and/or authorized user in 1996? If not, why not?

REQUEST FOR ADMISSIONS

1. Dr. Elamir is the Owner/President of Newark Medical Associates, holder of NRC Byproduct Nuclear Material License No. 29-30282-01.
2. The license application for Newark Medical Associates named Gerard W. Moskowitz, M.D. as the only authorized user and Radiation Safety Officer.
3. Dr. Elamir signed and transmitted the February 21, 1996, license application for Newark Medical Associates to the NRC.
5. Dr. Moskowitz did not ever perform the role of authorized user or Radiation Safety Officer for Newark Medical Associates.
6. Dr. Elamir never met Dr. Moskowitz.
7. Dr. Elamir had never spoken with Dr. Moskowitz prior to March 7, 1997.
8. Dr. Elamir stated to Dr. Moskowitz that Dr. Moskowitz had never been to Newark Medical Associates.
9. Neither Dr. Elamir nor Newark Medical Associates ever paid University of Medicine and Dentistry of New Jersey (UMDNJ) or Dr. Moskowitz for Dr. Moskowitz's nuclear medical services.
10. No written contract ever existed between Newark Medical Associates and Dr. Moskowitz or UMDNJ.
11. A draft contract existed between Irvington MRI and Affiliated MRI Centers and UMDNJ, but not between Newark Medical Associates and UMDNJ.
12. A draft contract existed between Irvington MRI and Affiliated MRI Centers and UMDNJ for magnetic resonance imaging (MRI) and/or radiology services, but not for nuclear medicine services.
13. Dr. Elamir notified the NRC by letter dated October 17, 1996, that Newark Medical Associates was initiating activities authorized by the license.
14. On February 6, 1997, Dr. Elamir told an NRC inspector that the Newark Medical Associates license was current with respect to the RSO and authorized user, Dr. Moskowitz.

15. On March 7, 1997, Dr. Elamir telephoned Dr. Moskowitz to ask if he would be Newark Medical Associates' RSO.

Respectfully submitted,



Catherine L. Marco
Counsel for NRC Staff

Dated at Rockville, Maryland
this 19th day of May, 1998

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NUCLEAR REGULATORY COMMISSION

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OFFICE OF THE SECRETARY
RULEMAKING AND
ADJUDICATION STAFF

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS AND ADMISSIONS" in the above-captioned proceeding have been served on the following through deposit in the Nuclear Regulatory Commission's internal mail system, or by deposit in the United States mail, first class, as indicated by an asterisk this 19th day of May, 1998:

Charles Bechhoefer, Chairman
Administrative Judge
Atomic Safety and Licensing Board
Mail Stop T 3-F-23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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Dr. Peter S. Lam
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Adjudicatory File (2)
Atomic Safety and Licensing Board
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U.S. Nuclear Regulatory Commission
Washington, DC 20555

Office of the Commission Appellate
Adjudication
Mail Stop: 16-C-15 OWFN
U.S. Nuclear Regulatory Commission
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Office of the Secretary (2)
ATTN: Rulemaking and Adjudications
Staff
Mail Stop: 16-C-15 OWFN
U.S. Nuclear Regulatory Commission
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Atomic Safety and Licensing Board
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