

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

'98 SEP 23 P3:28

Charles Bechhoefer, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

OFFICE OF THE
GENERAL COUNSEL
ADJUTANT GENERAL
NRC STAFF

In the Matter of

MAGDY ELAMIR, M.D.
Newark, New Jersey

Order Superseding Order
Prohibiting Involvement in
NRC-Licensed Activities
(Effective Immediately)

Docket No. IA 97-070

ASLBP No. 98-734-01-EA

September 23, 1998

MEMORANDUM AND ORDER
(Extension of Stay; Telephone Conference)

SERVED SEP 23 1998

On Wednesday, September 23, 1998, the Atomic Safety and Licensing Board conducted a telephone conference, to discuss the progress of ongoing settlement negotiations between the parties. The conference was noticed by the Licensing Board's Memorandum and Order (Stay of Proceeding and Telephone Conference) dated August 18, 1998. Participating, in addition to the three Licensing Board Administrative Judges, were Ann P. Hodgdon, Esq., Catherine L. Marco, Esq. and Stephanie Martz, Esq., for the NRC Staff; and Thomas H. Lee, II, Esq. for Dr. Magdy Elamir.

Mr. Lee reported that the two parties were close to reaching a settlement agreement but that, with respect to one element of the proposed settlement (not further identified), there was no agreement. Mr. Lee asserted, with respect to that item, that Dr. Elamir had made a reasonable

19543

offer but the NRC Staff was unwilling to compromise. Ms. Hodgdon asserted, with respect to that item, that the Staff was not unwilling to compromise but had not received an offer upon which a compromise could be considered.

Both parties acknowledged that the matter in dispute was not based on a factual dispute but only upon a difference of opinion as to what was reasonable. The Board advanced two possibilities for the parties to consider:

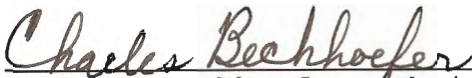
1. Appointment of a Settlement Judge or Special Master (acting as a Mediator) to make a recommendation for Board approval; or

2. Stipulate as many facts as possible and go to hearing only on the narrow issue in dispute.

Ms. Hodgdon advised that she had not been authorized by her client (the Director, OE) to entertain the first option, and she asked for additional time to consult with OE. The parties agreed to permit Ms. Hodgdon to consult with OE and to report to the Board and Mr. Lee in a conference call (initiated by the Board) on Monday, September 28, 1998, beginning at 10:00 a.m. The stay is extended until then.

IT IS SO ORDERED.

For the Atomic Safety and
Licensing Board


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 23, 1998

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

MAGDY ELAMIR, M.D.

(Superseding Order Prohibiting
Involvement in Licensed Activities)

Docket No.(s) IA 97-070

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O (EXT. OF STAY; TELECON) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

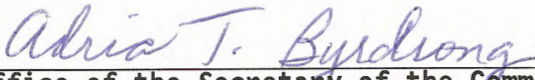
Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ann P. Hodgdon, Esquire
Catherine L. Marco, Esquire
Office of the General Counsel
Mail Stop - 0-15 B18
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Thomas H. Lee, II, Esquire
Rachel Nosowsky, Esquire
Dechert Price & Rhoads
4000 Bell Atlantic Tower
1717 Arch Street
Philadelphia, PA 19103

Perry D. Robinson, Esquire
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

Dated at Rockville, Md. this
23 day of September 1998


Office of the Secretary of the Commission