



DOCKET NUMBER
BYPRODUCTS 30-20644-CIVP

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

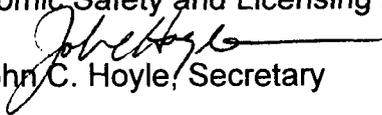
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USNRC

March 12, 1998

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OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

MEMORANDUM TO: B. Paul Cotter, Jr.
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

FROM: 
John C. Hoyle, Secretary

SUBJECT: ANSWER AND REQUEST FOR HEARING
SUBMITTED BY POWER INSPECTION, INC.

Attached is a request for hearing dated March 2, 1998, and submitted by Paul E. Chambers, President of Power Inspection, Inc. The hearing request was submitted in response to an "Order Imposing Civil Monetary Penalties" issued against Power Inspection, Inc. (Docket No. 30-20644) by the NRC Staff on February 3, 1998. The Order was published in the Federal Register at 63 Fed. Reg. 6967 (February 11, 1998). (Copy Attached).

The hearing request is being referred to you for appropriate action in accordance with 10 C.F.R. Sec. 2.772(j).

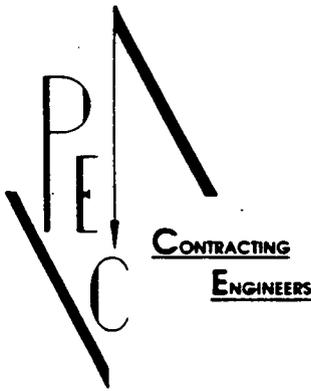
Attachments: as stated

cc: Commission Legal Assistants
OGC
CAA
OCA
OPA
EDO
NMSS
OE
Paul E. Chambers

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OFFICE OF SECRETARY
RULEMAKING AND
ADJUDICATIONS STAFF

March 2, 1998

Original via Fedex Tracking #804349900240
Copy via Certified Letter #P 460 916 630

Director
Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Re: Power Inspection, Inc.
Order Imposing Civil Monetary Penalties - \$40,000
(NRC Inspection Report No. 030-20644/93-002 and
Investigation Report No. 1-93-069R)
Request for an Enforcement Hearing

In response to the subject order and, specifically, the **Appendix**, "Evaluation and Conclusions," wherein it has been determined by the NRC "-- that the Licensee has not provided an adequate basis for mitigation of the proposed civil penalties," this letter is being sent as a formal request for an enforcement hearing.

We await the Commission's Order designating the time and place of the hearing.

Sincerely,

P.E.C. Contracting Engineers

Paul E. Chambers
President

/bj

cc: Commissioner's Document Control Desk
Assistant General Counsel for Hearing and Enforcement
Regional Administrator
File



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

February 3, 1998

EA 95-025

Mr. Krishna Kumar, President
Power Inspection, Inc.
c/o William F. Manifesto, Esq.
1550 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

Mr. Paul Chambers
Power Inspection, Inc.
c/o PEC Contracting Engineers
P.O. Box 7872
Pittsburgh, PA 15215

SUBJECT: ORDER IMPOSING CIVIL MONETARY PENALTIES - \$40,000
(NRC Inspection Report No. 030-20644/93-002 and Investigation Report
No. 1-93-069R)

This refers to Mr. Chambers' letter dated May 13, 1997, in response to the Notice of Violation and Proposed Imposition of Civil Penalty (Notice) sent to Mr. Chambers by our letter dated February 18, 1997. This also refers to Mr. Kumar's letters dated October 28, 1997 and January 6, 1998 (submitted by his counsel, Mr. Manifesto), in response to the Notice sent by our letter dated October 22, 1997. Our Notice described nine violations identified during an NRC inspection and a subsequent investigation.

To emphasize the unacceptability of deliberate misconduct and the need to provide the NRC complete and accurate information, a civil penalty of \$40,000 was proposed.

In response, Mr. Chambers protested the proposed civil penalties arguing that he is neither the owner nor President of Power Inspection (PI), that his involvement with PI was strictly as an investor, and that Mr. Kumar, President and major stockholder of PI, is fully responsible for the violations. Mr. Kumar's response argued that Mr. Chambers was the secretary/treasurer of PI during the relevant time period, that Mr. Chambers had total control of the bank account of the corporation, that Mr. Chambers served as an officer and on the Board of Directors of PI, and that Mr. Chambers maintained all of the assets of PI (including bank accounts and equipment) after Mr. Kumar severed his relation with PI in August 1994.

After careful consideration of your responses, we have concluded, for the reasons given in the Appendix attached to the Order Imposing Civil Monetary Penalty (Order), that: (1) neither Mr. Chambers nor Mr. Kumar provided a basis for mitigation of the proposed civil penalty; and (2) both Mr. Kumar and Mr. Chambers, as current or former officers and owners of PI during the period of time that the violations occurred, are responsible for ensuring that PI pays the civil penalties concerning its violations of NRC requirements. Accordingly, we hereby serve the

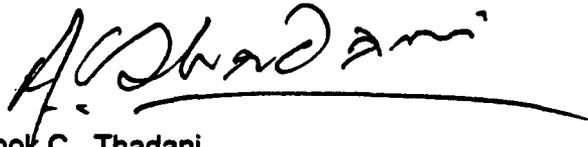
Mr. Krishna Kumar
Mr. Paul Chambers

- 2 -

enclosed Order on PI imposing civil monetary penalties in the amount of \$40,000. As provided in Section IV of the enclosed Order, payment should be made within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738. As noted in the enclosed Order, if PI fails to request a hearing, or if payment has not been made, within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings and the matter may be referred to the Attorney General for collection.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

Sincerely,



Ashok C. Thadani
Acting Deputy Executive Director
for Regulatory Effectiveness

Docket No. 030-20644
License No. 37-21428-01

Enclosure: As Stated

cc: Commonwealth of Pennsylvania
State of Florida

*Published at
63 Fed. Reg. 6967
(Feb 11, 1998)*

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

POWER INSPECTION, INC.
Wexford, Pennsylvania

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Docket No. 030-20644
License No. 37-21428-01
EA 95-025

ORDER IMPOSING CIVIL MONETARY PENALTY

I

Power Inspection, Inc., (PI or Licensee) is the holder of NRC Materials License No. 37-21428-01 issued by the Nuclear Regulatory Commission (NRC or Commission). The license authorizes the Licensee to possess sealed radioactive sources and to utilize those sources to conduct industrial radiography in accordance with the conditions specified therein. The license expired on January 31, 1994.

II

An NRC inspection of the Licensee's activities was conducted on December 2-3, 1993, and a subsequent NRC investigation was conducted from March 9 through December 22, 1994. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 18, 1997. The Notice states the nature of the violations, the provisions of NRC requirements that the Licensee had violated, and the amount of the civil penalties proposed for the violations.

Two officers of the Licensee responded to the Notice in letters dated May 13, 1997, October 28, 1997, and January 6, 1998. The officers' responses did not deny the violations and proposed

no reason for mitigating the civil penalties; rather, each officer maintained that he was not responsible for the violations and each officer proposed that the other officer should be held responsible for the violations and associated civil penalties.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and arguments for liability of the civil penalties contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalties proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, IT IS HEREBY ORDERED THAT:

The Licensee pay a civil penalty in the amount of \$40,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to **Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.**

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to 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, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415. .

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above; and

(b) Whether, on the basis of the violations described in the NRC's Notice, this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Ashok C. Thadani
Acting Deputy Executive Director
for Regulatory Effectiveness

Dated at Rockville, Maryland
this 3rd day of February 1998

APPENDIX

EVALUATION AND CONCLUSIONS

On February 18, 1997, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) in the amount of \$40,000 was issued to Power Inspection, Inc., (PI or Licensee) for violations identified during an NRC inspection conducted on December 2-3, 1993, and a subsequent investigation was conducted from March 9 through December 22, 1994. Two officers of the Licensee responded to the Notice in letters dated May 13, 1997, October 28, 1997, and January 6, 1998. The officers' responses did not deny the violations and proposed no reason for mitigating the civil penalties; rather, each officer maintained that he was not responsible for the violations and each officer proposed that the other officer should be held responsible for the violations and associated civil penalties.

Summary of the Licensee's Responses Concerning Liability and Responsibility for the Violations

1. PI's Response Dated May 13, 1997 (Submitted by Mr. Chambers, PI's Secretary/Treasurer):

Mr. Chambers protested the proposed civil penalties arguing that he is neither the owner nor President of PI, and that his involvement with PI was strictly as an investor. In addition, Mr. Chambers maintained that he did not take part in the day-to-day operations of PI and that Mr. Kumar, President and major stockholder of PI, is fully responsible for the violations. Mr. Chambers subsequently provided the NRC a copy of "Stock Restriction and Purchase Agreement" among PI, Mr. Chambers, and Mr. Kumar as evidence that his involvement was strictly as an investor.

2. PI's Responses Dated October 28, 1997, and January 6, 1998 (Submitted by Mr. Kumar, PI's President):

Mr. Kumar's responses submitted by Mr. Manifesto, Mr. Kumar's counsel, argued that Mr. Chambers was the secretary/treasurer of PI during the relevant time period and that PI was owned jointly by Mr. Kumar and Mr. Chambers. Mr. Kumar further argued that Mr. Chambers had total control of the bank account of the corporation, and had equal financial control over all financial matters, as evidenced by the fact that no payment in excess of \$1,000.00 could be made without Mr. Chambers' signature. In addition, Mr. Kumar maintained that: (1) Mr. Chambers served not only as an officer, but also on the Board of Directors of PI; and (2) after Mr. Kumar severed his relation with PI in August 1994, Mr. Chambers maintained all of the assets of PI, including bank accounts and equipment.

NRC Evaluation of the Licensee's Responses:

The Licensee's arguments, as set forth above, do not provide a basis under the NRC's Enforcement Policy for mitigation or remission of the civil penalties. As to the question of responsibility, PI must pay the civil penalty in accordance with this Order. The Licensee's arguments do not relieve Mr. Chambers or Mr. Kumar of their responsibilities for ensuring that PI pays the civil penalty. Both Mr. Chambers and Mr. Kumar were part-owners and corporate officers of PI during the time period when the violations of NRC requirements occurred.

Therefore, after careful consideration of the responses, the NRC has determined that neither Mr. Chambers nor Mr. Kumar provided an adequate basis for the NRC to conclude that they should not be responsible for ensuring payment of the civil penalties by PI concerning its violations of NRC requirements. The NRC's determination is based on the fact that:

- Mr. Chambers served as an officer, and on the Board of Directors, of PI during the relevant time period; Mr. Chambers had control of all personnel matters during the relevant time period; Mr. Chambers had total financial control of PI; and Mr. Chambers maintained all of PI's assets, including bank accounts and equipment after PI became defunct.
- Mr. Kumar was the President of PI during the relevant time period; Mr. Kumar is the last known President of Power Inspection as noted in a July 16, 1996 "Stock Restriction and Purchase Agreement"; Mr. Kumar is currently listed as the Chief Executive Officer of PI on the Pennsylvania Department of State Corporate/Limited Partnership records; and Mr. Kumar is currently listed as the Chief Executive Officer/President of PI on the Dunn & Bradstreet listing.

NRC Conclusion:

The NRC has considered all of the arguments the Licensee made and concluded that the Licensee has not provided an adequate basis for mitigation of the proposed civil penalties. In addition, the NRC has concluded that Mr. Chambers and Mr. Kumar are responsible for ensuring payment of the civil penalties by PI concerning its violations of NRC requirements. Consequently, the civil penalties in the amount of \$40,000 should be imposed by order.