

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
MR. DAVID MILAS

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IA 98-047

ORDER PROHIBITING INVOLVEMENT IN  
NRC-LICENSED ACTIVITIES

I

Mr. David Milas (Mr. Milas) was formerly employed by the Commonwealth Edison Company (ComEd or Licensee) at the Dresden Nuclear Station (Dresden or facility) and was an applicant for a reactor operator's (RO) license at that facility. ComEd is the holder of License Nos. DPR-19 and DPR-25 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. These licenses authorize ComEd to operate Dresden Units 2 and 3 in accordance with the conditions specified therein.

II

On July 1, 1996, officials at Dresden notified the Commission that the NRC examination for reactor operator licenses, due to be administered at Dresden on July 8, 1996, appeared to have been compromised, as portions of that examination had been found in a copy machine. The NRC Office of Investigations (OI) immediately began an investigation into this matter. The OI investigation indicated that the NRC examination was compromised and originally identified only one individual that was involved, an applicant for an NRC senior reactor operator's (SRO) licensee. Upon further investigation, OI also identified Mr. Milas, an applicant for an NRC RO license, as being directly involved with the compromise of the NRC examination.

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The OI investigation found that on June 29, 1996, Mr. Milas and the SRO license applicant were studying for their respective examinations in the Dresden Training Building. During that day, they entered the unlocked office of the Dresden licensing instructors to look for written evaluations that their instructors had made of them. According to both individuals, instructors had previously informed their class that study materials could be found in the instructors' office, and the instructors had indicated where the keys could be found for locked cabinets and desks in their office. The two individuals obtained the necessary keys in the instructors' office, unlocked desks and cabinets, and found the NRC operator licensing examination. The SRO applicant photocopied the NRC examination, while Mr. Milas posted himself at a window to watch for anyone entering the training building.

OI also determined that Mr. Milas returned to the same photocopy machine on June 30, 1996, and made another copy of the examination from the copy he had obtained on June 29, 1996.

The OI investigators coordinated the results of their investigation with the U.S. Attorney, Chicago, Illinois, and Mr. Milas was subsequently prosecuted for compromising the NRC examination. On May 14, 1998, Mr. Milas pleaded guilty in the United States District Court for the Northern District of Illinois to a criminal charge involving the compromise of a written examination for NRC reactor operators' licenses. As a part of his guilty plea, Mr. Milas agreed to never reapply for a position as a reactor operator at any facility under the jurisdiction, administration, or control of the NRC.

### III

The NRC must be able to rely on a facility licensee and its employees to comply with all NRC rules and regulations. Based on the OI investigation and the criminal conviction, the NRC has

concluded that Mr. Milas violated the NRC's rules prohibiting deliberate misconduct at nuclear power facilities and the compromise of the integrity of NRC examinations. Specifically, 10 CFR 50.5(a)(1), "Deliberate Misconduct," prohibits any employee of an NRC licensee (ComEd) from engaging in deliberate misconduct that causes or, but for detection would have caused, a licensee to be in violation of any rule or regulation issued by the Commission. Additionally, 10 CFR 55.49, "Integrity of Examinations and Tests," provides in part that applicants for NRC RO and SRO licenses and facility licensees (ComEd) shall not engage in any activity that compromises the integrity of any test or examination required by 10 CFR Part 55, "Operator's Licenses." The NRC has concluded that Mr. Milas' actions constituted deliberate misconduct and also constituted a deliberate violation of 10 CFR 55.49. Mr. Milas' deliberate actions have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to refrain from deliberately violating NRC rules and regulations.

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. Milas were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety, and interest require that Mr. Milas be prohibited from any involvement in NRC-licensed activities for a period of five years from the effective date of this Order. If Mr. Milas is involved with another licensee in NRC-licensed activities on the effective date of this Order, he must immediately cease such 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. Additionally, Mr. Milas is required to notify the NRC of his first employment in NRC-licensed activities in the five years following the prohibition period.

Accordingly, pursuant to sections 57, 63, 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, 10 CFR 50.5, and 10 CFR 150.20, IT IS HEREBY ORDERED THAT:

1. David Milas is prohibited for five years from the effective date of this Order from engaging in 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 pursuant to the authority granted by 10 CFR 150.20.
2. If Mr. Milas is involved with another licensee in NRC-licensed activities on the effective date of this Order, he must immediately cease such 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. For a period of five years after the five-year period of prohibition has expired, Mr. Milas shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed

activities. In the first notification, Mr. Milas shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

## V

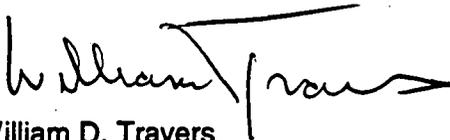
In accordance with 10 CFR 2.202, David Milas must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time 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. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Milas or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemaking and Adjudications, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532-4351, and to Mr. Milas, if the answer or hearing request is by a person other than Mr. Milas. If a person other than Mr. Milas

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 2.714(d).

If a hearing is requested by Mr. Milas or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. 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 20 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.

FOR THE NUCLEAR REGULATORY COMMISSION



William D. Travers  
Deputy Executive Director for  
Regulatory Effectiveness

Dated at Rockville, Maryland  
this 18<sup>th</sup> day of September 1998

Enclosure: Judgement in a Criminal  
Case and Plea Agreement

## SYNOPSIS

This supplemental investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Office of Investigations, Region III (RIII), on October 16, 1997, regarding an allegation that a Dresden Nuclear Power Station (Dresden) bargaining unit employee (Reactor Operator (RO) candidate) deliberately assisted a management employee (Senior Reactor Operator (SRO) candidate) in compromising both the NRC RO and SRO examinations at Dresden on June 29 and 30, 1996.

Based upon the evidence developed during the investigation, it is concluded that the bargaining unit employee (RO candidate) at Dresden deliberately assisted the management employee (SRO candidate) in compromising both the NRC RO and SRO examinations.

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