



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

May 15, 2019

IA-18-048

Mr. Simon Siu
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

SUBJECT: NOTICE OF VIOLATION – NRC INVESTIGATION REPORT NO. 1-2017-017

Dear Mr. Siu:

This letter refers to an investigation completed on June 28, 2018, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI). The purpose of the investigation was to determine whether you, in your position as General Manager and Radiation Safety Officer (RSO) of the Solis Tek, Incorporated (Solis Tek) East facility in New Jersey, engaged in deliberate actions to import and distribute bulbs containing krypton-85 without NRC authorization to do so, placing the licensee in apparent violation of 10 CFR 30.3(a).

In our letter, dated January 10, 2019, we provided you a factual summary of the investigation report and provided you the opportunity to address the apparent violation identified in the summary by (1) responding to the apparent violation addressed in this letter within 30 days of the date of this letter, (2) requesting a predecisional enforcement conference (PEC), or (3) requesting alternative dispute resolution (ADR) mediation. You chose to participate in a PEC.

Based on the evidence gathered during the investigation, and follow up review, including a PEC held with you on February 21, 2019, the NRC has concluded that you violated NRC's requirements prohibiting deliberate misconduct, 10 CFR 30.10. This rule prohibits any licensee, or employee of a licensee, from engaging in deliberate misconduct that causes or would have caused, if not detected, a licensee to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

As General Manager and RSO of the Solis Tek East Facility, you were informed multiple times from March 2015 through February 2017 by a representative from the New Jersey Bureau of Environmental Protection that Solis Tek was required to have an NRC license for distribution of grow lamps containing Kr-85 light bulbs. This State official also informed you through an electronic mail that Solis Tek should immediately cease distribution of the Kr-85 light bulbs. Further, the NRC also informed you by electronic mailings in February and March 2017 of the requirement to obtain an NRC distribution license, emphasizing that Solis Tek was not permitted to distribute any licensable products before obtaining the license. After you submitted the license application on February 24, 2017, and before the NRC license for the New Jersey location was issued on July 20, 2017, you continued to distribute the Kr-85 lamps during the months of February through June 2017. Finally, in interviews with the NRC, you admitted that, after receiving the notifications from New Jersey and NRC representatives, you chose not to immediately stop distribution in order to provide a period of time to inform Solis Tek's customers that shipments were going to stop.

Your actions placed Solis Tek in violation of 10 CFR 32.14 requirements for an NRC licensee and you in violation of 10 CFR 30.10, "Deliberate Misconduct," when you deliberately distributed the grow lamps containing Kr-85 bulbs while aware that Solis Tek did not have the required NRC exempt distribution license.

Given the significance of the underlying issue and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>. The violation is cited in Enclosure 1, Notice of Violation (Notice).

You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or may also be considered for criminal prosecution by the U.S. Department of Justice. You are required to respond to this letter and should follow the instructions specified in the enclosed Notice 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 Notice. The NRC will use your response, in part, to determine whether further enforcement action is necessary to ensure compliance with regulatory requirements.

If you disagree with this enforcement sanction, you may deny the violation, as described in the Notice, or you may request ADR with the NRC in an attempt to resolve this issue. This request must be made within 30 days of the issuance date of the Notice. 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. Additional information concerning the NRC's program is described in enclosure (2) brochure (NUREG/BR-0317) and can be obtained at <http://www.nrc.gov/about-nrc/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate NRC's program as an intake neutral. **Please contact ICR at 607-255-1124 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR. In addition, if you choose this option, also please contact Mr. Hipólito J. González, at (301) 415-5637, within 10 days of the date of this letter.**

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure(s), and your response, if you choose to provide one, will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC's 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/>.

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 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, can be accessed from the NRC's Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

If you have any questions regarding this matter, you may contact Mr. Hipólito J. González, at (301) 415-5637.

Sincerely,

/RA/

George A. Wilson, Director
Office of Enforcement

Enclosure:

1. Notice of Violation
2. Brochure (NUREG/BR-0317)

USPS EXPRESS MAIL
RETURN RECEIPT REQUESTED

Mr. Siu

SUBJECT: NOTICE OF VIOLATION – NRC INVESTIGATION REPORT NO. 1-2017-017
Dated: 5/15/2019

DISTRIBUTION:

RStruckmeyer, NMSS
KWilliams, NMSS
H HGonzález, NMSS
SXu, NMSS
RErickson, RGN-IV
MBurgess, NMSS
SBaker, OIP
SWoods, OE
KGamin, OGC
LHowell, RGN-IV
JKramer, RGN-IV
DMcIntyre, OPA
VDricks, RIV

ADAMS Accession No.:ML19130A169 * see previous concurrence

OFFICE	NMSS/MSST/PM	NMSS/MSST/BC	NMSS/MSST	NMSS/EC	IP
NAME	RStruckmeyer Via email	HGonzález Via email	KWilliams*	MBurgess*	SBaker*
DATE	05/02/19	05/02/19	05/02/19	05/02/19	5/06/19
OFFICE	RIV/DNMS	OE/EB	OGC/NLO	OE	
NAME	LHowell	JPeralta	KGamin	GWilson	
DATE	5/10/19 (Email)	5/07/19	5/08/19 (Email)	5/07/19	

OFFICIAL RECORD COPY

NOTICE OF VIOLATION

Mr. Simon Siu
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390(a)]

IA-18-048

During a U.S. Nuclear Regulatory Commission (NRC) investigation completed on June 28, 2018, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

Title 10 of the *Code of Federal Regulations* (CFR) 30.10(a)(1) states, in part, that any employee of a licensee may not engage in deliberate misconduct that causes, or would have caused, if not detected, a licensee, certificate of registration holder, or applicant to be in violation of any rule, regulation, or order; or any term, condition, or limitation of any license issued by the Commission.

Contrary to the above, by your deliberate action, you have violated 10 CFR 30.10 by causing Solis Tek, Inc. to be in violation of initially transferring, for sale or distribution, bulbs containing krypton-85, prior to obtaining an NRC license for such activity pursuant 10 CFR 32.14. Specifically, from February 24, 2017 through June 12, 2017, you have violated 10 CFR 30.10, by causing Solis Tek to be in violation of 10 CFR 32.14 when you continued to deliberately ship Kr-85 bulbs from February through June 2017 while aware that Solis Tek did not have the required NRC exempt distribution license.

This is a Severity Level III violation (Section 6.9).

Pursuant to the provisions of 10 CFR 2.201, you are hereby required to submit a written statement or explanation to the U.S. Nuclear Regulatory Commission, ATTN: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, and marked "Open by Addressee Only," within 30 days of the date of the letter transmitting this Notice of Violation (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation; IA-18-048" and should include for each violation: (1) the reason for the violation, or, if contested, the basis for disputing the violation; (2) the corrective steps that have been taken and the results achieved; (3) the corrective steps that will be taken; and (4) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued requiring information as to why such other action as may be proper should not be taken. Where good cause is shown, consideration will be given to extending the response time.

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

Your response will be made available electronically for public inspection in the NRC Public Document Room, and in the NRC's Agencywide Document Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To

Enclosure 1

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. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

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 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, can be accessed from the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Dated this 15th day of May 2019