



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

August 8, 2019

IA-19-002

Mr. Kristian Meyer
[NOTE: HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

SUBJECT: NOTICE OF VIOLATION, AND INVESTIGATION REPORT NO. 1-2018-006

Dear Mr. Meyer:

This letter refers to the investigation initiated on January 19, 2018, and completed on October 23, 2018, by the U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations (OI) regarding your activities at Dead Ringer, LLC in Rochester, New York. The purpose of the investigation was to determine whether Dead Ringer, LLC had continued to willfully distribute gun sights containing radioactive material (tritium), despite having asserted during its December 2017 predecisional enforcement conference (PEC) that such sales had halted in early 2016. The investigation examined whether you, the Vice President of Dead Ringer, LLC, willfully continued to distribute gun sights containing tritium, contrary to the statements made during the December 2017 PEC. A factual summary of the investigation, as it pertains to your actions, was issued as an enclosure to our letter dated May 9, 2019.

In the letter dated May 9, 2019, transmitting the factual summary of the OI report, we provided you the opportunity to address the apparent violation identified in the report by either responding in writing, requesting a PEC, or requesting an alternative dispute resolution (ADR) mediation, before we made our final enforcement decision. In a letter dated June 6, 2019, and a supplemental email dated June 17, 2019, you provided a response to the apparent violation.

Based on the information developed during the investigation, the information that you provided in your letter dated June 6, 2019, and the email dated June 17, 2019, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1). As the Vice President of Dead Ringer, LLC, you deliberately distributed products containing radioactive material (tritium) without the required NRC licenses and sealed source and device evaluation. Specifically, under your oversight, between May 2017 and January 2018, you deliberately distributed approximately 850 gun sights containing tritium via Web site sales (Amazon.com, Inc. (Amazon)). Between May 2017 to December 2017, 400 of the 850 gun sights containing tritium were transferred to Amazon for sale.

Your deliberate actions placed Dead Ringer, LLC in violation of the requirements to: (1) obtain an NRC license for activities pursuant to 10 CFR 30.3, 30.19, 32.22 prior to initially transferring, for sale or distribution, gun sights containing tritium; and (2) request an evaluation for a sealed source or device pursuant to 10 CFR 32.210. In addition, your deliberate actions placed you in violation of 10 CFR 30.10, Deliberate Misconduct. Enclosure 2 includes a copy of the letter and Notice of Violation issued to Dead Ringer, LLC. Given the significance of the underlying issue,

your position in the company, and the deliberate nature of your actions, this violation has been categorized in accordance with the NRC Enforcement Policy at Severity Level III.

In determining the appropriate sanction to be issued in this case, the NRC considered issuing an Order prohibiting your involvement in NRC-licensed activities as a result of your actions. However, after considering the circumstances of this case, including (1) the actual safety significance, and (2) your cooperation during the investigation, an Order banning you, in part or in whole, from NRC licensed activities, or other requirements imposed by an Order, is not warranted. Therefore, I have decided to issue the enclosed Notice of Violation.

If any application is submitted for NRC-licensed activities by you, on your behalf, or would include your involvement, you may be required to provide a detailed discussion of how the NRC would be confident that these issues would not recur. You should also be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action and may also be subject to criminal prosecution.

The NRC has concluded that since: (1) you acknowledged that you did not follow regulations; (2) you accepted responsibility for your actions; and (3) you stated that you will be leaving the company effective July 1, 2019, and you have no intention of selling radioactive material whatsoever in the future, you are not required to respond to this letter. Should you choose to respond, follow the instructions specified in the enclosed Notice.

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 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 Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

K. Meyer

- 3 -

Please feel free to contact Mr. Hipolito Gonzalez, Chief, Materials Safety and Tribal Liaison Branch, (301) 415-5637 if you have any questions.

Sincerely,

/RA/

George A. Wilson, Director
Office of Enforcement

Enclosures:

1. Notice of Violation
2. Notice of Violation to Dead Ringer, LLC

cc: State of NY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOTICE OF VIOLATION

Kristian Meyer
[HOME ADDRESS DELETED
UNDER 10 CFR 2.390]

IA-19-002

During an NRC investigation conducted from January 19, 2018, through October 23, 2018, a violation(s) of NRC requirements was (were) identified. In accordance with the NRC Enforcement Policy, the violation(s) is (are) listed below:

10 CFR 30.10, "Deliberate misconduct," paragraph (a), states, in part, that any licensee, certificate of registration, holder, applicant for a license or certificate of registration holder or applicant, or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or certificate of registration holder or applicant for a license or certificate of registration, who knowingly provides to any licensee, applicant, certificate holder, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's, certificate holder's or applicant's activities in this part, may not: (1) 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.

10 CFR 2.201 allows the Commission to issue Notices of Violation to any person subject to the jurisdiction of the Commission.

10 CFR 2.202 allows the Commission to issue Orders to any person subject to the jurisdiction of the Commission.

Contrary to the above, you engaged in deliberate misconduct by distributing gun sights containing radioactive materials (tritium) without the appropriate licensing and evaluation for a sealed source or device that you knew were required and which caused Dead Ringer, LLC to be in violation of: (1) initially transferring, for sale or distribution, gun sights containing tritium, prior to obtaining an NRC license for such activity pursuant to 10 CFR 30.3, 30.19, 32.22; and (2) failing to request an evaluation for a sealed source or device pursuant to 10 CFR 32.210. Specifically, between May 2017 and January 2018, Dead Ringer, LLC distributed approximately 850 gun sights containing tritium via Web site sales (Amazon.com, Inc. (Amazon)). Additionally, under your oversight, 400 out of the 850 gun sights containing tritium were transferred to Amazon for sale between May 2017 to December 2017.

This is a Severity Level III violation (NRC Enforcement Policy Section 2.2.1.d).

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence and the date when full compliance was achieved is already adequately addressed on the docket in the letter dated June 9, 2019. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a Reply to a Notice of Violation, and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory

Commission, with copies to the Document Control Desk, Washington, DC 20555-0001, and the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

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 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 8th day of August 2019

NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Dead Ringer, LLC
Rochester, New York

EA-17-175 and EA-18-183

During two separate NRC investigations initiated on January 4, 2017, and January 19, 2018, respectively, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the NRC proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and Title 10 *Code of Federal Regulations* (10 CFR) 2.205. The particular violations and associated civil penalty are set forth below:

- A. 10 CFR 30.3(a), "Activities requiring license" provides, in part, that no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter."

10 CFR 30.19(a), provides an exemption to the requirement for a license in 10 CFR 30.3(a) for persons who receive, possess, use, transfer, own or acquire tritium, krypton-85, or promethium-147 in self-luminous products manufacture, process, produce, or initially transfer in accordance with a specific license issue pursuant to § 32.22, which license authorizes the initial transfer of the product for use under 10 CFR 30.19. However, the exemption in 10 CFR 30.19(a) excludes "persons... who initially transfer for sale or distribution" such self-luminous products containing tritium.

Contrary to the above, Dead Ringer, Inc. willfully distributed material to unlicensed persons without an NRC license to distribute. Specifically, between approximately January 2015 and January 2018, Dead Ringer, LLC willfully initially transferred, for sale or distribution, approximately 10,350 gun sights containing tritium (byproduct material) to unlicensed persons without obtaining a specific license pursuant to 10 CFR 32.22.

- B. 10 CFR 30.19(b) provides, in part, that any person who desires to initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under 10 CFR 30.19(a) should apply for a specific license pursuant to 10 CFR 32.22 and for a certificate of registration in accordance with § 32.210, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to 10 CFR 30.15(a).

Contrary to the above, Dead Ringer, LLC willfully distributed gun sights containing tritium without having an evaluation by the NRC and a registration in the Sealed Source and Device Registry. Specifically, between approximately January 2015 and January 2018, Dead Ringer, LLC willfully distributed approximately 10,350 gun sights containing tritium without having an evaluation by the NRC and a registration in the Sealed Source and Device Registry in accordance with 10 CFR 32.210, as is required by 10 CFR 32.22(a)(3)(ii).

- C. 10 CFR 110.5 states, in part, no person may import any nuclear equipment or material listed in 10 CFR 110.9, unless authorized by a general or specific license issued under this part.

10 CFR 110.9a, List of nuclear equipment and material under NRC import licensing authority, includes byproduct material (i.e. H-3).

10 CFR 110.20 states "if an export or import is not covered by the NRC general licenses in §§ 110.21 through 110.27, a person must file with the Commission for a specific license in accordance with §§ 110.31 through 110.32.

10 CFR 110.27(a) states "Except as provided in paragraphs (b) and (c) of this section, a general license is issued to any person to import byproduct, source, or special nuclear material if the U.S. consignee is authorized to receive and possess the material under a general or specific NRC or Agreement State license issued by the Commission or a State with which the Commission has entered into an agreement under Section 274b of the Atomic Energy Act."

Contrary to the above, Dead Ringer Inc., willfully imported byproduct material listed in 10 CFR 110.9 and the import of the material was not authorized under a general or specific license. Specifically, between approximately January 2015 and May 2017, Dead Ringer LLC. willfully imported approximately 10,350 gun sights, manufactured in China, and containing tritium, without having a possession license issued by the State of New York. Therefore, the import was not authorized under the provisions of a general license.

This is a Severity Level III problem (NRC Enforcement Policy Sections 6.3 and 6.15).
Civil Penalty - \$43,500 (EA-17-175 and EA-18-183)

The NRC has concluded that information regarding the reason for the violations, the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in the letter dated June 9, 2019. However, if the description therein does not accurately reflect your position or your corrective actions, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 within 30 days of the date of the letter transmitting this Notice of Violation. In that case, or if you choose to respond, clearly mark your response as a Reply to a Notice of Violation, and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with copies to the Document Control Desk, Washington, DC 20555-0001, and the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

Dead Ringer, LLC may pay the civil penalty proposed above, in accordance with NUREG/BR-0254 (Enclosure 2) and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, a statement indicating when and by what method payment was made, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice.

Should you fail to answer within 30 days of the date of this Notice, the NRC will issue an order imposing the civil penalty. Should you elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation; EA-17-175 and EA-18-183" and may: (1) deny the violations listed in this Notice, in whole or in part; (2) demonstrate extenuating circumstances; (3) show error in this Notice; or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the response should address the factors addressed in Section 2.3.4 of the Enforcement Policy. Any written answer addressing these factors pursuant to 10 CFR 2.205 should be set forth separately from the statement or explanation provided pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205 to be due, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The responses noted above, i.e., Reply to Notice of Violation, Statement as to payment of civil penalty, and Answer to a Notice of Violation, should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with copies to the Document Control Desk, Washington, DC 20555-0001, and the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852-2738.

Your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. To the extent possible, the response should not include any personal privacy or proprietary 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 that such material is withheld from public disclosure, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim (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.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days of receipt.

Dated this 8th day of August 2019.