



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

→ PDR

July 6, 1981

J. Jackson Walter, Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

Dear Mr. Walter:

Subsequent to my May 29, 1981, letter regarding Thomas M. Roberts, it has come to my attention that Southern Boiler and Tank Works, Inc., (Southern), a company with which Mr. Roberts has a continuing financial relationship, has been a subcontractor supplying components and services to nuclear suppliers and that its nuclear-related business has at times constituted the bulk of the company's work. As a result, I am writing to supplement my earlier determination that Mr. Roberts' financial interests do not create any conflicts of interest or present any appearance of impropriety.

Southern is a custom steel plate fabricator serving the nuclear, petrochemical and food processing industries which was acquired by Chicago Milwaukee Corporation on October 3, 1978. In August, 1978, work in connection with the construction of nuclear power plants constituted approximately 80% of the company's business. However, since that time the amount of the company's nuclear work has declined sharply, and at present there are only a few outstanding nuclear-related contracts. Southern is currently finishing up a contract for TVA on shield wall material, the completion of which is anticipated by the end of July, and also has some small ongoing contracts to assemble and test strainers used in nuclear plant containments.

As reflected in his Financial Disclosure Report, Mr. Roberts has two types of continuing financial interests in Southern: he has a vested pension as part of Southern's employee retirement plan and he holds a note from Southern issued in connection with his sale of the company.

Based upon information provided to my office about Southern's pension plan, I have determined that Mr. Roberts' participation in Commission matters cannot affect the amount of his pension. Although his share in the pension plan was related to the company's profits during the time that Mr. Roberts was employed at Southern, his pension is not related to current or future profits.

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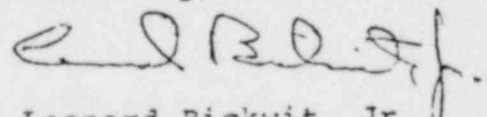
With regard to the note from Southern, Mr. Roberts has assured me that the amount and certainty of benefits due to him are not subject to Southern's future financial condition. Under the terms of the note, his remaining interest in Southern is for a fixed sum, to be reduced by a fixed amount on an annual basis, and is secured by assets substantially in excess of the amount due to him. No conditions of the sale were tied to the company's future financial health, and in the event of Southern's dissolution he is a priority secured creditor. Thus, his participation in Commission matters cannot affect the amounts he receives pursuant to the note. The attached certification of Mr. Roberts provides the bases for this conclusion.

Under 18 U.S.C. 208(a), an NRC Commissioner is precluded from acting on matters affecting an entity in which he has a financial interest. Thus Mr. Roberts would have to recuse himself from participation in matters affecting Southern unless he were granted an exemption under 18 U.S.C. 208(b). I believe Mr. Roberts meets the requirements for a waiver of the restrictions of 18 U.S.C. 208(a) because his financial interests are not so substantial as to be likely to affect the integrity of his services to the government. The Chairman of the Commission agrees and has granted the attached exemption pursuant to 18 U.S.C. 208(b).

Apart from the restrictions of 18 U.S.C. 208(a), because Southern has performed work for a number of nuclear companies and suppliers, in certain circumstances there could be a question of the propriety of Mr. Roberts reviewing matters involving work performed by his former company. Thus, where in his role as a Commissioner Mr. Roberts is in a position to act on a particular matter affecting a plant for which Southern has performed work, he should not participate in the matter to the extent that work performed or contracted for while he was at Southern is at issue. Since it is difficult to predict how such situations will come up in the future, my office will monitor those matters where a problem is likely to arise and will advise Mr. Roberts as to whether his participation is permissible on a case-by-case basis.

Assuming that Mr. Roberts recuses himself from such cases on the advice of this office, I certify that there is no conflict of interest or appearance of impropriety with regard to Thomas M. Roberts' appointment to the Nuclear Regulatory Commission.

Sincerely,



Leonard Bickwit, Jr.
General Counsel

Enclosures:

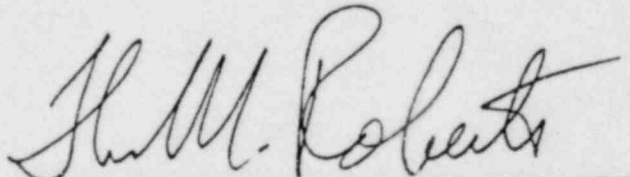
Certification of T. M. Roberts

Certification Pursuant to 18 U.S.C. 208(b)

cc: Thomas M. Roberts
(w/encl.)

CERTIFICATION

I hereby certify that the amount and certainty of the interests due to me from the sale of Southern Boiler and Tank Works, Inc. (Southern) under the terms of the note from Southern and the installment sale of Southern referenced in my Financial Disclosure Report (Form 278) are not subject to the future financial condition of Southern. My remaining interest from the sale of Southern is a fixed sum, to be reduced by a fixed amount on an annual basis, and is secured by assets substantially in excess of the amount due to me. No conditions of the sale were tied to the company's future financial health, and in the event of the company's dissolution I am a priority secured creditor.



THOMAS M. ROBERTS

Dated this th26 day of June, 1981.


THOMAS M. ROBERTS

CERTIFICATION PURSUANT TO 18 U.S.C. § 208(b)

Pursuant to Section 208(b), Title 18 U.S.C. (Pub. L. 87-849, 76 Stat. 1124), the Chairman of the Nuclear Regulatory Commission hereby determines, for the reasons set forth below, that an exemption from Section 208(a) be granted to Thomas M. Roberts, a nominee to the Nuclear Regulatory Commission, so that he may be permitted to review, without regard to the restrictions of Section 208(a), matters relating to Southern Boiler & Tank Works, Inc.

Southern Boiler & Tank Works, Inc., is a custom steel plate fabricator serving the nuclear, petrochemical and food processing industries. In the past, Southern Boiler has manufactured steel containment liners for a number of nuclear power plants and currently has some small outstanding contracts with companies involved in the nuclear industry. Mr. Roberts' participation in Commission business would be substantially diminished if he could not review matters related to Southern Boiler & Tank Works, Inc. Mr. Roberts has a vested pension from Southern Boiler, and holds a note from Southern issued in connection with his sale of the company. However, Mr. Roberts' participation in Commission matters cannot affect the amounts he is entitled to receive from these financial interests because they are unrelated to the future financial condition of Southern. Thus, I have determined that these interests

are not so substantial as to be likely to affect the integrity of Mr. Roberts' services to the Government.


NUNZIO J. PALLADINO
Chairman of the Commission

Dated at Washington, D.C.
this 6th day of July, 1981.