

10946

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

'90 OCT 19 P3:54

Before Administrative Judges

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

John H Frye, III, Chairman
Dr. James H. Carpenter
Frederick J. Shon

SERVED OCT 22 1990

In the Matter of
CAMBRIDGE MEDICAL TECHNOLOGY
CORPORATION

(Materials License No.
20-06799-02 E.A. 89-233)

Docket No. 30-04659-CivP

ASLBP No. 90-616-02-CivP

October 19, 1990

MEMORANDUM AND ORDER
(Terminating Proceeding)

This proceeding began when Staff issued an Order Imposing Civil Monetary Penalty on Cambridge Medical Technology Corporation (CMT) on account of an alleged violation of NRC requirements. See 55 Fed. Reg. 22419, June 1, 1990. CMT responded to this Order by requesting a hearing. In light of the fact that CMT's response raised matters concerning CMT's financial condition of which Staff had been unaware, we held the proceeding in abeyance at Staff's request in order to permit further discussions between Staff and CMT.

Staff then submitted for our approval a second Order which rescinds the original Order. The second Order continues to allege a violation of Commission requirements,

DS02

but notes that CMT's actions in connection with the orderly termination of its license and decontamination of the facility provide reasonable assurance that the violation will not recur. The second Order does not impose a civil penalty because to do so potentially would jeopardize the decommissioning of the facility. Simultaneously, Staff moved to terminate the proceeding.

On August 30, CMT responded to Staff's second Order and motion, stating:

We do not object to this motion for termination as long as such non-objection does not in any way represent an admission or acceptance on our part that the NRC's findings were correct.

Because we were unsure whether this response was intended to invoke CMT's right to a hearing, in a Memorandum and Order of September 14 we approved Staff's second Order and granted its motion to terminate the proceeding, provided that CMT was given five days in which to request a hearing on the second Order and therefore on Staff's allegation. Following a telephone call from CMT which indicated some uncertainty, on September 19 we held a conference call in which Mr. Joseph P. Carroll, Chairman, President, and CEO of CMT, Ms. Colleen P. Woodhead, Counsel for NRC Staff, and the Board's Chairman participated.


The purpose of the call was to discuss the status of this proceeding and to determine whether CMT wished a hearing. In the course of that conference call, CMT and

Staff appeared to agree that the proceeding should be terminated as it presently stands. A Memorandum and Order terminating the proceeding was prepared which purported to set forth the agreement between CMT and Staff. Because the Memorandum and Order set forth their agreement, on September 19 it was circulated to Staff and CMT in advance of issuance for their acceptance. Specifically, the Memorandum and Order was mailed to Joseph P. Carroll, Chairman, President, and CEO of CMT for signature and transmittal to Staff counsel for her signature. Following signature by CMT and Staff, it was to be entered by the Board.

One month has passed and no response has been received from CMT. Consequently, we hereby approve Staff's second Order and grant its motion to terminate this proceeding.

It is so ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD



John H. Frye, III, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
October 19, 1990

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

CAMBRIDGE MEDICAL TECHNOLOGY CORP.

(Materials License No. 20-06799-02
E.A. 89-233)

Docket No.(s) 30-04659-CIVP

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&D (TERMINATING PROCEEDING) have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
John H. Frye, III, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

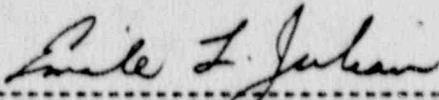
Administrative Judge
Federick J. Shon
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Joseph P. Carroll, Chairman
President and C.E.O.
Cambridge Medical Technology Corp.
575 Middlesex Turnpike
Billerica, MA 01865

William T. Russell
Regional Administrator, Region I
475 Allendale Road
King of Prussia, PA 19406

Dated at Rockville, Md. this
22 day of October 1990



Office of the Secretary of the Commission