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

'94 FEB 25 4 12

Before Administrative Judges:

Ivan W. Smith, Chairman
Dr. Richard F. Cole
Dr. Charles N. Kelber

SERVED FEB 25 1994

In the Matter of
CAMEO DIAGNOSTIC CENTRE, INC.
Byproduct Material License
No. 20-27908-01
EA 93-005

Docket No. 30-29567-CivP
ASLBP No. 94-686-01-CivP
February 23, 1994

MEMORANDUM AND ORDER

In the prehearing conference of February 1, 1994, we requested the NRC Staff to file, no later than February 15, a brief on the Board's question concerning the adequacy of alleged Violation I.B. The Licensee was granted until March 1 to answer the Staff's brief.

The Staff responded to the Board's question. Consistent with its response, the Staff issued an Order Modifying Order Imposing Civil Monetary Penalty dated February 15, 1994.¹ The Modified Order alleges new facts

¹The Board questioned whether a total failure to provide information to the Commission could constitute a violation of 10 C.F.R. § 30.9(a). The Staff, agreeing with the implications of the question, answered that a failure to provide information, without more, cannot constitute a violation of that section. The Modified Order reflects the Staff's position.

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in support of alleged Violation I.B. and provides that the Licensee shall respond to the Modified Order within 20 days of the date of the order. Since the Staff's Modified Order supersedes and moots the question raised by the Board in the prehearing conference, Licensee need not respond to the Staff's brief on March 1, as previously scheduled by the Board.

In addition, the Board suspends the time for responding to the February 15 Modified Order until further notice.² We take this action because we have additional questions about alleged Violation I.B.

Section 30.9(a), the legal foundation of alleged Violation I.B., states:


Information provided to the Commission by an applicant for a license or by a licensee or information required by statute or by the Commission's regulations, orders, or license conditions to be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

Neither the original Order nor the Modified Order alleges that the Licensee had a duty imposed by "statute or by the Commission's regulations, orders, or license


²Mr. Rosenbaum, President of Cameo Diagnostic Centre, telephoned the Board's Chairman on February 17 to inquire about the availability of transcripts. During the conversation, the Chairman informed Mr. Rosenbaum that the March 1 answer date has been superseded by the Staff's Modified Order and that the 20-day time period to respond to the Staff's Modified Order would be suspended by the Board. The Chairman also requested Mr. Rosenbaum to seek the assistance of NRC Staff legal counsel before contacting members of the Board for any procedural guidance.

conditions" to provide any information, accurate or otherwise, to the Commission. As matters now stand, the Licensee has not been notified in a formal charging document as to how its agent breached a duty imposed by law to provide complete and accurate answers to the NRC inspector during the telephone call on November 12, 1992 or to correct the inspector's understanding of the answers as alleged in modified alleged Violation I.B.

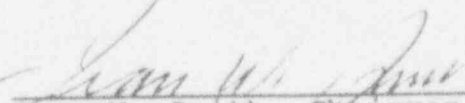
Therefore, we provide to the Staff an opportunity to brief the matter. We invite a full discussion of all of the Board's options, including: Whether the modified alleged violation is satisfactory and may stand as it is presently written; whether the Board may entertain another modification; and whether alleged Violation I.B. should be dismissed. The Staff's response may be filed on or before March 9, 1994. The Licensee may answer the Staff's response within 15 days of its service.



Dr. Richard F. Cole
ADMINISTRATIVE JUDGE



Dr. Charles N. Kelber
ADMINISTRATIVE JUDGE



Ivan W. Smith, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland

February 23, 1994

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

CAMEO DIAGNOSTIC CENTRE, INC.

(Byproduct Material License No.
20-27908-01, EA 93-005)

Docket No.(s) 30-29567-CIVP

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB M&O DATED 2/23/94 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.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Ivan W. Smith, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

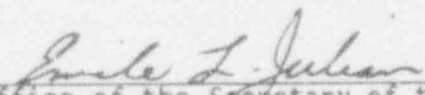
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Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
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Charles W. Kelber
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Paul Rosenbaum, President
Cameo Diagnostic Centre, Inc.
155 Maple Street
Springfield, MA 01105

Dated at Rockville, Md. this
25 day of February 1994


Office of the Secretary of the Commission