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RELATED CORRESPONDENCE

DOCKETED
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NRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
MARKETING & SERVICE
BRANCH

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| In the Matter of |) | |
| |) | |
| CAMEO DIAGNOSTIC CENTRE, INC. |) | Docket No. 030-29567-CivP |
| SPRINGFIELD, MASSACHUSETTS |) | |
| |) | ASLBP No. 94-686-01-CivP |
| (Byproduct/Source Material License |) | |
| No. 20-27908-01) |) | |

NRC STAFF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS

Pursuant to 10 C.F.R. §§ 2.740b and 2.741 of the Commission's regulations, the NRC staff (Staff) hereby requires that Cameo Diagnostic Centre, Inc. (Licensee) respond to the following interrogatories,¹ and produce for inspection and copying, the documents requested.² In addition, pursuant to 10 C.F.R. § 2.742 of the Commission's regulations,

¹ Pursuant to 10 C.F.R. § 2.740b(b), the Licensee must serve a copy of the answers and objections to the interrogatories upon the Staff within 14 days after service of the interrogatories. If the interrogatories are served upon the Licensee by mail, the Licensee shall have an additional five days in which to respond. See 10 C.F.R. § 2.710 (rules for computing time). In addition, the answers must be filed with the Secretary of the Commission and must be served on the presiding officer. 10 C.F.R. § 2.740b(a).

² With respect to the Staff's request for the production of documents, the Commission's regulations at 10 C.F.R. § 2.741(d) provide that the party upon whom such a request is served shall serve upon the party submitting the request a written response within 30 days after the service of the request. The Commission's regulations concerning the computation of time apply to requests for production of documents as well as to interrogatories. 10 C.F.R. § 2.710.

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the Staff hereby files its requests for admissions of the truth of the matters specified below in the Request For Admissions portion of this document.³

Each interrogatory shall be answered separately and fully, in writing, and under oath or affirmation and shall include all pertinent information available to the Licensee, or its representatives, based upon the personal knowledge of the person answering. The production of the documents requested herein shall take place at the Office of General Counsel, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Room 15-B-18, Rockville, Maryland, unless other arrangements are made, by agreement, in this regard.

INSTRUCTIONS

1. To the extent that the Licensee does not have specific, complete, and accurate information with which to answer any interrogatory, the Licensee should so state, and the interrogatory should be answered to the extent information is available, identifying each person who is believed to have accurate information with respect thereto.

2. Each interrogatory shall be deemed to be continuing, and the Licensee is required seasonably to supplement answers with additional facts, documents, information,

³ The Commission's regulations at 10 C.F.R. § 2.742(b) provide that each requested admission shall be deemed made unless, within a time designated by the presiding officer or the Commission, and not less than ten days after service of the request or such further time as may be allowed on motion, the party to whom the request is directed serves on the requesting party its response as provided in section 2.742. The time period set forth in section 2.742 for service of the admission shall be computed in accordance with the Commission's regulations at 10 C.F.R. § 2.710, which provide that under certain circumstances, a party shall have additional time for responding.

and names of witnesses, which subsequently become known, in accordance with 10 C.F.R. § 2.740(e)(1) and (2).⁴

3. The words "and" and "or" shall be construed either conjunctively or disjunctively so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

4. Wherever appropriate, the singular form of a word shall be interpreted in the plural, and vice versa, so as to bring within the scope of these discovery requests any information that might otherwise be construed to be outside their scope.

5. Please produce a copy of each document requested in the form and condition in which it exists on the date of service of this request, including all comments, notes, remarks, and other material that may have been added to the document after its initial preparation.

6. If the Licensee objects to or claims a privilege (*e.g.*, attorney-client, work product, or other) with respect to any interrogatory or document request, in whole or in part, or seeks to withhold documents or information because of the alleged proprietary or other nature of the data, please set forth all reasons and the underlying factual basis for the objection or claim of privilege in sufficient detail to permit the Atomic Safety and Licensing Board to determine the validity of the objection or claim of privilege in the event the assertion of a privilege is challenged by the Staff. This description by the Licensee should include with respect to any document:

⁴Under 10 C.F.R. § 2.740(e), parties are required, under certain circumstances, to supplement responses to discovery requests.

- a. author, addressor, addressee, and recipients of indicated and "blind" copies together with their job titles;
- b. date of preparation;
- c. subject matter;
- d. purpose for which the document was prepared;
- e. all persons to whom distributed, shown, or explained;
- f. present custodian;
- g. all persons believed to have a copy of the document; and
- h. the nature of the privilege or objection asserted.

7. For any document or part of a document that was at one time, but is no longer, in the Licensee's possession, custody, or control, or which is no longer in existence, or which cannot be located or produced, identify the document, state where and how it passed out of existence or why it can no longer be located or produced and the reasons therefore, and identify each person having knowledge concerning such disposition or loss and the contents of the document, and identify each document evidencing its prior existence and/or any fact concerning its nonexistence or loss.

DEFINITIONS AND GUIDELINES TO BE
USED IN RESPONDING TO THIS DISCOVERY REQUEST

1. "Communication" shall mean correspondence, contact, discussion, or any other kind of written or oral exchange between two or more persons or entities including, but not limited to, all telephone conversations, face-to-face meetings or conversations, visits, conferences, and internal and external discussions, and exchange of a document or documents.

2. "Concerns," "Concerning," or another derivative thereof, includes referring to, responding to, relating to, pertaining to, in connection with, comprising, memorializing, commenting on, regarding, discussing, showing, describing, reflecting, analyzing, supporting, contradicting, and constituting.

3. "Document" or "writing" as used herein shall mean any written matter, whether produced, reproduced or stored on paper, cards, tapes, disks, belts, charts, film, computer storage devices or any other medium and shall include, without limitation, matter in the form of books, reports, studies, statements, speeches, notebooks, agreements, appointment calendars, working papers, manuals, memoranda, notes, procedures, orders, instructions, directions, training materials, records, correspondence, diaries, plans, diagrams, drawings, periodicals, lists, telephone logs, minutes, photographs, and any published materials and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

4. "Identify" when used in reference to a natural person means to set forth the following:

- a. his/her name;
- b. his/her last known residential address;
- c. his/her last known business address;
- d. his/her last employer;
- e. his/her title or position;
- f. his/her area of responsibility;
- g. his/her business, professional, or other relationship with the Licensee;

and

h. If any of the above information is changed subsequent to the time period referenced in a particular interrogatory, set forth in the answer, and label appropriately, current information as well as the information applicable to the time period referenced in the interrogatory.

5. "Identify" when used in reference to a document shall mean to set forth the following:

- a. its title;
- b. its subject matter;
- c. its date;
- d. its author;
- e. its addressee;
- f. its file designation or other identifying designation; and
- g. its present location and present custodian.

6. "Identify" with respect to a contact or communication shall set forth the following:

- a. the date of the communication;
- b. the place of the making and place of receipt of the communication;
- c. the type and means of communication;
- d. the substance of the communication;
- e. each person making a communication, and his location at the time the communication was made;
- f. each person to whom the communication was made, and his location at the time the communication was made;
- g. all other persons present during, participating in, or receiving the communication and the location of each such person at the time;

- h. each document concerning such communication; and
 - i. each document upon which the communication is based or which is referred to in the communication.
7. "License" means in the context of this discovery request NRC Byproduct Material License No. 20-27908-01.
8. "Licensee" means in the context of this discovery request Cameo Diagnostic Centre, Inc.
9. "Violation I.A.," in the context of this discovery request, refers to violation I.A. of the Order Imposing a Civil Monetary Penalty, dated November 24, 1993.
10. "Violation I.B.," in the context of this discovery request, refers to violation I.B. of the Order Imposing a Civil Monetary Penalty, dated November 24, 1993, as modified by the Order Modifying Order Imposing Civil Monetary Penalty, dated February 15, 1994.
11. The Staff requests that documents produced in compliance with this request be accompanied with a specific indication as to the particular paragraphs of the Staff's discovery request under which the documents are being produced.

INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS

I. General Interrogatories

INTERROGATORY 1

Identify any person the Licensee intends to call as a witness at the evidentiary hearing in this proceeding.

INTERROGATORY 2

With respect to any person listed in response to Interrogatory 1, state the details of that person's education, employment history and asserted area of expertise, or, in the alternative, a copy of such person's *curriculum vitae*, or statement of professional qualifications may be provided.

INTERROGATORY 3

Identify any persons⁵ who have knowledge of the facts concerning:

a. the issue of whether distorted or omitted facts underlie violation I.A. and violation I.B., as alleged by the Licensee in its "Request for an Enforcement Hearing," dated December 17, 1993;

b. the issue of malice toward the Licensee, as alleged by the Licensee in its "Request for an Enforcement Hearing," dated December 17, 1993; and

c. any other fact concerning the matters in controversy herein, including, but not limited to, all persons from whom the Licensee has obtained or attempted to obtain written or oral statements, whether or not the Licensee intends to call that person as a witness in this proceeding.

INTERROGATORY 4

Describe the involvement of the Licensee's former Radiation Safety Officer, D. S. Tamarin, M.D., concerning any of the issues specified in Interrogatory 3 or any other matter in controversy in this proceeding.

⁵ Pursuant to 10 C.F.R. § 2.740(e)(1)(i), a party is under a duty to supplement its response to any question directly addressed to the identity and location of person having knowledge of discoverable matters.

INTERROGATORY 5

Identify all documents the Licensee intends to rely on in this proceeding.

INTERROGATORY 6

As to each document listed in response to Interrogatory 5, state whether or not the Licensee intends to seek to move each such document into the record as evidence in this proceeding pursuant to 10 C.F.R. § 2.743.

INTERROGATORY 7

As to each document listed in response to Interrogatory 5, state what fact or opinion the Licensee intends to establish if the document is admitted into evidence.

REQUEST FOR PRODUCTION OF DOCUMENTS 1

Provide copies of the documents identified in response to Interrogatory 5.

II. Interrogatories Relative to Violation I.A.

INTERROGATORY 8

A. Does the Licensee contend that it did not violate 10 C.F.R. 35.13(e)?

B. If the response to Interrogatory 8A is in the affirmative, how does the Licensee intend to establish that it did not violate 10 C.F.R. 35.13(e)?

INTERROGATORY 9

A. Does the Licensee contend that the Staff's allegation, as stated in violation I.A., that as of November 3, 1992, the Licensee changed the address and location at which byproduct material was used from 110 Maple Street, Springfield, Massachusetts to 155 Maple Street, Springfield, Massachusetts, is not accurate?

B. If so, identify those facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 9B are not accurate?

D. Identify all documents the Licensee is relying on in responding to Interrogatory 9.

REQUEST FOR PRODUCTION OF DOCUMENTS 2

Provide copies of the documents identified in response to Interrogatory 9D.

INTERROGATORY 10

A. Does the Licensee contend that the Staff's allegation as stated in violation I.A., that the Licensee did not receive an amendment to authorize the change of location until January 12, 1993, is not accurate?

B. If so, identify those facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 10B are not accurate?

D. Identify all documentation the Licensee is relying on in responding to Interrogatory 10.

REQUEST FOR PRODUCTION OF DOCUMENTS 3

Provide copies of the documents identified in response to Interrogatory 10D.

III. Interrogatories Relative to Violation I.A. -- Distorted or Omitted Facts

INTERROGATORY 11

A. With respect to violation I.A., identify those facts the Licensee contends have been distorted or omitted.

B. How does the Licensee intend to establish that the facts identified in response to Interrogatory 11A have been distorted or omitted?

C. Identify all documentation the Licensee is relying on in responding to Interrogatory 11.

REQUEST FOR PRODUCTION OF DOCUMENTS 4

Provide copies of the documents identified in response to Interrogatory 11C.

INTERROGATORY 12

A. How does the Licensee intend to establish that the distorted or omitted facts induced the Commission to charge the Licensee with violation I.A, as alleged in the Licensee's "Request For an Enforcement Hearing," dated December 17, 1993?

B. Define the phrase "inducing the Commission."

C. Identify the NRC officers, employees, and representatives the Licensee alleges are responsible for inducing the Commission to charge the Licensee with violation I.A.

D. Identify the officers, employees, and representatives of the Commission that were so induced.

E. Identify all documentation the Licensee is relying on in responding to Interrogatory 12.

REQUEST FOR PRODUCTION OF DOCUMENTS 5

Provide copies of the documents identified in response to Interrogatory 12E.

INTERROGATORY 13

Assuming that the Licensee is able to establish that the Commission was induced by distorted or omitted facts to charge the Licensee with violation I.A., explain how the Licensee intends to establish that such inducement invalidates violation I.A.

IV. Interrogatories Relative to Violation I.B.

INTERROGATORY 14

A. Does the Licensee contend that it did not violate 10 C.F.R. 30.9(a)?

B. If the response to Interrogatory 14A is in the affirmative, how does the Licensee intend to establish that it did not violate 10 C.F.R. 30.9(a)?

C. Identify all documentation the Licensee is relying on in responding to Interrogatory 14.

REQUEST FOR PRODUCTION OF DOCUMENTS 6

Provide copies of all documents identified in response to Interrogatory 14C.

INTERROGATORY 15

A. Does the Licensee dispute that on October 21, 1992, Mr. Paul J. Rosenbaum, the Licensee's president, met with the Staff's representatives, Ms. Susan Shankman and Ms. Pamela Henderson, at the NRC Region I offices?

B. Does the Licensee dispute that during the meeting referenced in Interrogatory 15A, Mr. Rosenbaum stated that he was moving the Licensee's facility in the near future?

C. Does the Licensee dispute that during the meeting referenced in Interrogatory 15A, Mr. Rosenbaum was told by Staff representatives that before the Licensee may use licensed material at its new address, the Licensee must first receive a license amendment that identifies the location of use?

D. For each Interrogatory answered affirmatively in 15A-15C, explain with particularity why the Licensee disputes the assertion contained therein.

E. Identify all documentation the Licensee is relying on in responding to Interrogatory 15.

REQUEST FOR PRODUCTION OF DOCUMENTS 7

Provide copies of all documents identified in response to Interrogatory 15E.

INTERROGATORY 16

A. Does the Licensee dispute that during a November 12, 1992 telephone conversation, Ms. Pamela Henderson of Region I asked Mr. Rosenbaum if the Licensee had licensed materials at its new address?

B. If so, identify those facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 16B are not accurate.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 16.

REQUEST FOR PRODUCTIONS OF DOCUMENTS 8

Provide copies of all documents identified in response to Interrogatory 16D.

INTERROGATORY 17

A. Does the Licensee dispute that Mr. Rosenbaum responded to Ms. Henderson's question, referenced in Interrogatory 16A, negatively, thus indicating that the Licensee did not have licensed materials at its new address?

B. If so, identify those facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 17B are not accurate.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 17.

REQUEST FOR PRODUCTION OF DOCUMENTS 9

Provide copies of all the documents identified in response to Interrogatory 17D.

INTERROGATORY 18

A. Did the Licensee receive a letter from Ms. Pamela J. Henderson, Medical Licensing Section, Division of Radiation Safety and Safeguards, addressed to Mr. Paul Rosenbaum, President, Cameo Diagnostic Centre, Incorporated, dated November 13, 1992 which summarized the content of the November 12, 1992 telephone conversation referenced in Interrogatory 16A?

B. Identify any facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 18B are not accurate.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 18.

REQUEST FOR PRODUCTION OF DOCUMENTS 10

Provide copies of all the documents identified in response to Interrogatory 18D.

INTERROGATORY 19

With respect to the November 13, 1992 letter referenced in Interrogatory 18A, does the Licensee dispute that the letter contains the following language:

From the telephone conversation, it is our understanding that:

1. You have taken occupancy of a new facility.
2. You do not as yet possess any NRC licensed radioactive materials at this new facility.

You were informed that in order to commence use of NRC licensed radioactive materials at your new facility that you must apply for and receive a license amendment or license renewal which identifies the address where radioactive materials are used or possessed. This requirement is stated in the regulations (10 CFR 35.13(e)).

...

You may not begin to use NRC licensed radioactive materials at your new facility until such time as you receive an amendment to your license for change of use location or receive your completed license renewal.

INTERROGATORY 20

A. Does the Licensee dispute that during telephone conversations on November 19 and 25, 1992, Ms. Henderson told the Licensee that it needed to obtain a license amendment before conducting licensed activities at its new location?

B. If the answer to Interrogatory 20A is in the affirmative, explain with particularity why the Licensee disputes the assertion contained in Interrogatory 20A.

C. Identify all the documents the Licensee is relying on in responding to Interrogatory 20.

REQUEST FOR PRODUCTION OF DOCUMENTS 11

Provide copies of all the documents identified in response to Interrogatory 20C.

INTERROGATORY 21

A. Does the Licensee contend that the Staff's allegation as stated in violation I.B, that the information was material because, had the correct information been known, it would have resulted in action by the NRC to prohibit licensed activity at the new address until a license amendment had been granted, is not accurate?

B. If the answer to Interrogatory 21A is in the affirmative, identify those facts in the above statement that the Licensee contends are not accurate.

C. Explain how the Licensee intends to establish that the facts identified in response to Interrogatory 21B are not accurate.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 21.

REQUEST FOR PRODUCTION OF DOCUMENTS 12

Provide copies of all the documents identified in response to Interrogatory 21D.

INTERROGATORY 22

A. Does the Licensee contend that it provided the Commission with complete and accurate information prior to the move from 110 Maple Street, Springfield, Massachusetts to 155 Maple Street, Springfield, Massachusetts?

B. If so, how does the Licensee intend to establish that it provided the Commission with complete and accurate information prior to its move from 110 Maple Street, Springfield, Massachusetts to 155 Maple Street, Springfield, Massachusetts?

C. Identify all the documents the Licensee is relying on in responding to Interrogatory 22.

REQUEST FOR PRODUCTION OF DOCUMENTS 13

Provide copies of all the documents identified in response to Interrogatory 22C.

INTERROGATORY 23

A. Identify each instance in which the Licensee contends that it provided complete and accurate information prior to its move from 110 Maple Street to 155 Maple Street. For each instance, state fully and in detail:

1. the substance and content of the information provided to the NRC;
2. the method of communication by which the information was provided to the NRC;
3. the dates on which the information was provided to the NRC;

4. the full names of the individual NRC employees or agents who received the information; and

5. any responses or acknowledgements made by NRC employees or agents with respect to the information provided.

B. Identify all documentation of the communications identified in response to Interrogatory 23A.

C. Identify all documentation of any responses or acknowledgements to the communications identified in response to Interrogatory 23A.

REQUEST FOR PRODUCTION OF DOCUMENTS 14

Provide copies of all the documents identified in response to Interrogatories 23B and 23C.

V. Interrogatories Relative to Violation I.B. -- Distorted or Omitted Facts

INTERROGATORY 24

A. With respect to violation I.B., identify those facts that the Licensee contends have been distorted or omitted.

B. How does the Licensee intend to establish that the facts identified in response to Interrogatory 24A have been distorted or omitted?

C. Identify all the documents the Licensee is relying on in responding to Interrogatory 24.

REQUEST FOR PRODUCTION OF DOCUMENTS 15

Provide copies of all the documents identified in response to Interrogatory 24C.

INTERROGATORY 25

A. How does the Licensee intend to establish that the distorted or omitted facts induced the Commission to charge the Licensee with violation I.B., as alleged in the Licensee's "Request For an Enforcement Hearing," dated December 17, 1993?

B. Identify the NRC officers, employees, and representatives the Licensee alleges are responsible for inducing the Commission to charge the Licensee with violation I.B.

C. Identify the officers, employees, and representatives of the Commission that were so induced.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 25.

REQUEST FOR PRODUCTION OF DOCUMENTS 16

Provide copies of all the documents identified in response to Interrogatory 25D.

INTERROGATORY 26

Assuming that the Licensee is able to establish that the Commission was induced by distorted or omitted facts to charge the Licensee with violation I.B., explain how the Licensee intends to establish that such inducement invalidates violation I.B.

VI. Interrogatories Relative to Malice

INTERROGATORY 27

How does the Licensee intend to establish that malice toward the Licensee was a factor influencing the Commission's decision to declare the Licensee as having been in violation of its requirements, as is alleged in the Licensee's "Request For an Enforcement Hearing," dated December 17, 1993?

INTERROGATORY 28

A. Identify each instance or indication of malice exhibited against the Licensee. For each instance or indication of malice, state fully and in detail:

1. the dates of each act or indication of malice;
2. the individual NRC employees, agents, and/or representatives involved;
3. the extent and nature of the individual employees, agents, and/or representatives' involvement; and
4. the circumstances surrounding each act or indication of malice.

B. Identify all the documents the Licensee is relying on in responding to Interrogatory 28.

REQUEST FOR PRODUCTION OF DOCUMENTS 17

Provide copies of all the documents identified in response to Interrogatory 28B.

INTERROGATORY 29

What is the Licensee's factual theory as to why the NRC harbors malice toward the Licensee?

VII. Interrogatories Relative to the Sanction Imposed

INTERROGATORY 30

A. Does the Licensee contend that violation I.A. and I.B. were classified at an inappropriate severity level?

B. If the answer to Interrogatory 30A is in the affirmative, explain why the Licensee contends that violation I.A. and I.B. were classified at an inappropriate severity level.

C. Identify all the documents the Licensee is relying on in responding to Interrogatory 30.

REQUEST FOR PRODUCTION OF DOCUMENTS 18

Provide copies of all the documents identified in response to Interrogatory 30C.

INTERROGATORY 31

A. Does the Licensee contend that the base civil penalty for violations I.A. and I.B. was inappropriately escalated?

B. If the answer to Interrogatory 31A is in the affirmative, explain why the Licensee contends that the base civil penalty was inappropriately escalated.

C. Identify all the documents the Licensee is relying on in responding to Interrogatory 31.

REQUEST FOR PRODUCTION OF DOCUMENTS 19

Provide copies of all the documents identified in response to Interrogatory 31C.

INTERROGATORY 32

A. Does the Licensee contend that the base civil penalty for violations I.A. and I.B. should have been mitigated?

B. If the answer to Interrogatory 32A is in the affirmative, explain why the Licensee contends that the base civil penalty should have been mitigated.

C. If the answer to Interrogatory 32A is in the affirmative, explain what factors specified in 10 C.F.R. Part 2, Appendix C, Section VI.B.2 support mitigation.

D. Identify all the documents the Licensee is relying on in responding to Interrogatory 32.

REQUEST FOR PRODUCTION OF DOCUMENTS 20

Provide copies of all the documents identified in response to Interrogatory 32D.

INTERROGATORY 33

Provide any other fact(s), not previously provided in response to any of the above interrogatories, that the Licensee intends to rely upon to demonstrate that the civil penalty imposed in the Order was not supported by the facts as set forth in the Order.

REQUEST FOR ADMISSIONS⁶

1. The Licensee is the holder of Byproduct/Source Material License No. 20-27908-01, issued by the U.S. Nuclear Regulatory Commission on January 30, 1987.

2. Prior to the issuance of the January 12, 1993 license amendment, the Licensee authorized the Licensee to perform diagnostic procedures with radioactive byproduct material and to store Promethium-147 at the Licensee's location of use at 110 Maple Street, Suite A, Springfield, Massachusetts and 3400 Main Street, Springfield, Massachusetts.

3. Prior to January 12, 1993, the Licensee did not authorize the Licensee to use licensed material at 155 Maple Street, Springfield, Massachusetts.

⁶ This request for admissions may be supplemented or enlarged upon completion of discovery.

4. As of November 3, 1992, the Licensee moved its facility at which byproduct material was used from 110 Maple Street, Springfield, Massachusetts to 155 Maple Street, Springfield, Massachusetts.

5. The Licensee began using licensed material at its new facility without NRC authorization to do so in order to avoid payment of a license amendment fee.

6. The attached copy of a letter from Pamela J. Henderson to Mr. Paul J. Rosenbaum, dated November 13, 1992, was received by Mr. Rosenbaum.

7. The attached copy of a list, forwarded by letter dated December 18, 1992 from Paul J. Rosenbaum to Lawrence J. Chandler, is a complete list of dates on which the Licensee used NRC-licensed radioactive material at 155 Maple Street, Springfield, Massachusetts in violation of NRC requirements, and constitutes a complete list of the types and amounts of radioactive material used on each of those dates.

8. The Licensee was using NRC licensed material from November 3, 1992 through December 11, 1992 at the 155 Maple Street, Springfield, Massachusetts address.

9. On December 11, 1992, during a telephone conversation, when Ms. Susan Shankman told Mr. Rosenbaum that he was using NRC-licensed material at his new location in violation of NRC regulations and asked Mr. Rosenbaum whether he would voluntarily agree to stop using NRC-licensed materials at 155 Maple Street, Springfield, Massachusetts, he stated that he would not.

10. On December 11, 1992, the Staff notified the Licensee's daily suppliers of NRC licensed material that the Licensee was not authorized to receive NRC licensed material at its 155 Maple Street, Springfield, Massachusetts address.

11. The Licensee did not receive a license amendment from the NRC authorizing the change of its location to 155 Maple Street, Springfield, Massachusetts until January 12, 1993.

Respectfully submitted,

Catherine L. Marco

Catherine L. Marco
Counsel for NRC Staff

Dated at Rockville, Maryland
this 22nd day of March, 1994

NOV 13 1992

License No. 20-27908-01
Docket No. 030-29567

Cameo Diagnostic Center, Incorporated
ATTN: Paul Rosenbaum, President
155 Maple Street
Springfield, Massachusetts 01105

Dear Mr. Rosenbaum:

SUBJECT: Telephone Conversation on November 12, 1992

On November 12, 1992, Susan Frant Shankman and Pamela Henderson of this office spoke with you by telephone regarding your recent change of facility address. This memorandum summarizes the content of that telephone conversation. Pursuant to the telephone conversation this letter is being sent to you via Express Mail.

Prior to our November 12 telephone conversation, you called Pamela Henderson and left a message on her voice mail indicating that you were experiencing a delay in completing your response to our renewal application deficiency letter to you dated October 13, 1992. You stated that the delay was due to the confusion and disarray of your office resulting from the relocation of Cameo Diagnostic Center, Incorporated into a new facility. You affirmed that you would respond to our deficiency letter as soon as possible.

From the telephone conversation, it is our understanding that:

1. You have taken occupancy of a new facility.
2. You do not as yet possess any NRC licensed radioactive materials at this new facility.

You were informed that in order to commence use of NRC licensed radioactive materials at your new facility that you must apply for and receive a license amendment or license renewal which identifies the address where radioactive materials are used or possessed. This requirement is stated in the regulations (10 CFR 35.13(e)).

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SECTION 101

Two options for licensing your new facility were discussed:

1. You may file an expedited license amendment request to change the radioactive materials use location on your license. If you choose this option, you must include a diagram of your new facility along with the request. Such an amendment request would be completed rapidly by this office and would allow you to use NRC licensed radioactive materials with minimal delay. This action will require submittal of an amendment fee. This fee is separate from the license renewal fee.
2. You may submit your completed response to our license renewal deficiency letter dated October 13, 1992, which includes your change use location. Your change of location would then be processed with the renewal of your license. However, please be advised that this action will take a longer period of time to be completed as compared to option one above. This is due to your request for an exemption to the regulations with respect to surveys (10 CFR 35.79). Any exemption to the regulations requires review by the NRC Headquarter's staff.

You may not begin to use NRC licensed radioactive materials at your new facility until such time as you receive an amendment to your license for change of use location or receive your completed license renewal.

As stated above, a license amendment request must be accompanied by the appropriate fee. Should you choose to submit an amendment request, please contact Sandra Kimberly (301) 492-8743 for information regarding the required amendment fee.

As discussed during our October 21 meeting with you in the Region I Office, you must submit a closeout survey of your old facility for NRC review. We are enclosing guidance for your use.

Sincerely,

Original Signed By:

Pamela J. Henderson

Pamela J. Henderson

Medical Licensing Section

Division of Radiation Safety

and Safeguards

Enclosure:

Guide for Release of Facilities and Equipment

SECTION 0000

CAMEO DIAGNOSTIC CENTRE, INC.
Specialized Medical Imaging and Measurements
155 Maple Street / Springfield, MA 01105
(413) 788-7000

December 12, 1992

Lawrence J. Chandler
Assistant General Counsel for
Hearing and Enforcement
U.S. Nuclear Regulatory Commission
Mail Stop 15B18
11555 Rockville Pike
Rockville, Maryland 29852

Re: Docket No. 030-29567
License No. 20-27908-01
EA 92-246

Dear Sir:

This letter is in response to Mr. Hugh Thompson's letter to me dated December 17, 1992.

I swear under the pains and penalties of perjury that the following is true.

A. A complete list of dates on which NRC-licensed radioactive material was used at the new facility in violation of NRC requirements, and the type and amount of radioactive material used on each of those dates.

RESPONSE: A complete list with dates, type and amount of radioactivity is provided in attached papers.

B. The reason that the Licensee's President allowed continued use of NRC-licensed material at a location that was not authorized after being informed, both orally and in writing, that this use was not authorized.

RESPONSE: Why did I continue to do business at 155 Maple Street? Because of sheer stupidity. I honestly and truly believed that Region I officials knew that I relocated to 155 Maple Street, Springfield, Massachusetts and had flexibility in administering the regulations. I had met with Ms. Susan Shankman and Ms. Pamela Henderson at Region I headquarters in King of Prussia, Pennsylvania on October 21,

Lawrence J. Chandler
Assistant General Counsel for
Hearing and Enforcement
December 18, 1992
Page 2

1992 to discuss my pending renewal application. I then informed them of my intention to relocate to 155 Maple Street, Springfield, Massachusetts on November 2, 1992. We reviewed plans for the 155 Maple Street location and Ms. Shankman and Ms. Henderson pointed out changes which would be required to conform to regulations. The changes requested were implemented and renewed plans were sent to Ms. Henderson on November 17, 1992 together with a close-out survey (Form 314), dated November 2, 1992, for 110 Maple Street, Springfield, Massachusetts. The premises at 155 Maple Street were constructed in accordance with these revised plans.

I reasoned that since an amendment for address change costs \$1,000 why not include an addendum to the pending license renewal application and save \$1,000. Since there was a short transition time expected (from November 2 to the receipt of a new license) I thought NRC officials would be able to accept that. My sheer stupidity was in not recognizing the gravity of the consequences of my efforts to save \$1,000. That is really and truly the entire basis for this deplorable mess I am now in. In no way was safety compromised since I knew that the premises were constructed in accordance with approved plans and that the same highly qualified staff were working at 155 Maple Street, Springfield, Massachusetts. I should note that the staff consisting of Ms. Patricia Beauchemin and Ms. Mary Dowling are certified in nuclear medicine, mammography and x-ray. In no way was I trying to be a wise guy. In no way did I intend to be deceitful. It was a straightforward misjudgment of the seriousness of failing to properly notify NRC of my move.

C. Why the Licensee's President did not inform the NRC that the Licensee was using licensed material at this new location, either during or after the NRC telephone call of November 12, 1992, and particularly after receiving the NRC letter dated November 13, 1992.

RESPONSE: While I did not specifically note to NRC that I was using radiomaterials at 155 Maple Street, I assumed it was understood. In my November 17 letter to Ms. Henderson, I asked for an addendum to my renewal application

Lawrence J. Chandler
Assistant General Counsel for
Hearing and Enforcement
December 18, 1992
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to change location from 110 Maple Street to 155 Maple Street. I believed it was a reasonable assumption, given that NRC was aware of a request for an address change, and that NRC had in hand a revised floor plan for 155 Maple Street complying with NRC regulations and a close-out survey (Form 314), with a November 2 date, for 110 Maple Street. There was no hanky-panky. It was a straight forward grievous error in making an assumption that should not have been made.

D. Why the Commission should have reasonable assurance that the Licensee and its President will provide complete and accurate information to the Commission and otherwise conduct its activities in accordance with the Commission's requirements in the future.

RESPONSE: NRC may be aware that I established nuclear medicine departments in 19 hospitals in New England over the last 30+ years. The record will show that those hospitals I consulted for did operate within AEC and NRC rules which was my responsibility. On the basis of that record plus my present (painful) awareness of the strictness of NRC rules, it (NRC) can be confident that accurate and complete information, now and in the future, will be given to NRC.

E. Why NRC License No. 20-27908-01 should not be modified, suspended or revoked in light of the actions by the Licensee's President to use NRC-licensed material at a location that was not authorized on the NRC license, notwithstanding the oral and written notification from the NRC that this activity was prohibited.

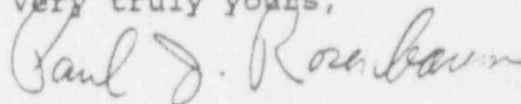
RESPONSE: I have learned my lesson. As I write this letter the viability of Cameo Diagnostic Centre hangs by a thin hair if operations cannot commence on December 21. My amendment application with \$1,000 fee for address change was shipped overnight December 11. Ms. Shankman advised me on December 11, 1992 that my address change could be processed within twenty-four hours if I agreed not to use regulated materials at 155 Maple Street until that approval process was completed. In fact, regulated materials have not been used at 155 Maple Street since our December 11 conversation and my business has been effectively stopped. I plead with

Lawrence J. Chandler
Assistant General Counsel for
Hearing and Enforcement
December 18, 1992
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you to keep this business alive. If we remain alive, NRC has 100% assurance that I will comply with NRC rules in every facet of our operations. Never will NRC have cause to question the truthfulness of our completeness of any information provided to NRC. After all, my very livelihood depends on so doing.

It is for all the above reasons that I believe NRC should lift the restrictions it placed on my supplier and permit Cameo Diagnostics to operate at 155 Maple Street, Springfield, Massachusetts.

Very truly yours,



Paul J. Rosebaum

PJR/kml

cc: ✓ Tim Martin, Region I Regional Director
James Lieberman, Director, Office of Enforcement
Hugh L. Thompson, Jr., Deputy Executive Director for
Nuclear Materials Safety, Safeguards and Operations Support

ATTACHMENT A

| | | | |
|-------------------|---|-------|--------|
| November 3, 1992 | - | Tc99m | 400uCi |
| November 4, 1992 | - | Tc99m | 400uCi |
| November 5, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | I123 | 200uCi |
| | | Tc99m | 22mCi |
| November 6, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| November 9, 1991 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | In111 | 500uCi |
| November 10, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| November 11, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| November 12, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| November 13, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| November 16, 1992 | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | I123 | 300uCi |
| | | I123 | 100uCi |
| November 17, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | In111 | 500uCi |
| November 18, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | I123 | 200uCi |

| | | | |
|-------------------|---|-------|--------|
| November 19, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| November 20, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| November 23, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | I123 | 200uCi |
| November 25, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 25mCi |
| | | Tc99m | 22mCi |
| November 25, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| November 30, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 1, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 5mCi |
| | | I123 | 300uCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 2, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| December 3, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | In111 | 500uCi |

| | | | |
|-------------------|---|-------|--------|
| December, 4, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 7, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 8, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 9, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 10, 1992 | - | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |
| December 11, 1992 | - | I123 | 200uCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 10mCi |
| | | Tc99m | 22mCi |
| | | Tc99m | 22mCi |

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'94 MAR 23 A11:44

In the Matter of)
)
CAMEO DIAGNOSTIC CENTRE, INC.) Docket No. 030-29567-CivP
SPRINGFIELD, MASSACHUSETTS)
) E.A. 93-005
(Byproduct/Source Material License)
No. 20-27908-01))

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS AND REQUEST FOR ADMISSIONS" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, certified, return receipt requested, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system this 22nd day of March 1994:

Judge Ivan W. Smith, Board Chairman*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Adjudicatory File (2)*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Richard F. Cole*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary (2)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Section

Dr. Charles N. Kelber*
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing Board
Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Paul J. Rosenbaum
Cameo Diagnostic Centre, Inc.
155 Maple Street
Springfield, MA 01105

Office of Commission Appellate
Adjudication (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Catherine L. Marco
Catherine L. Marco
Counsel for NRC Staff