

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 232-8550

March 5, 1986

Stephen G. Burns  
Deputy Chief Counsel  
Regional Operations and Enforcement Division  
Office of the Executive Legal Director  
U.S. Nuclear Regulatory Commission  
7735 Old Georgetown Road  
Bethesda MD 20014

Dear Mr. Burns:

We are in receipt of your March 5, 1986 letter confirming our conversation regarding GAP's client, Mr. Joe Macktal.

Mr. Macktal is relying on the NRC staff's commitment to follow the procedures in the NRC Manual, Chapter 0517, during the investigation of his allegations. Mr. Macktal understands that if the staff deviates from the procedures we will be notified in advance, immediately. This assumption is essential for his continued cooperation with the staff. On Tuesday we will restate this understanding for the record. If the assumption is in any way incorrect please inform Mr. Macktal at that time, so that counsel can advise him of how the staff's deviations could affect his rights.

It is my understanding that you agree to afford Ms. Garde all the professional courtesies and authority as you would myself. Since our agreement to the Texas location has made my attendance impossible.

We understand that Mr. Macktal will be reimbursed for expenses he incurs for attending the meeting, as you indicated in your previous letter to Mr. Macktal.

Finally, we expect that no more than six NRC employees will be present at the interview, and that these employees will include representatives from NRR, RIV, ELD, and possibly I&EHQ. This number is exceptionally large for this type of interview, and we must insist that six be the maximum number of NRC employees in attendance.

We would prefer the interview to be held in an Arlington hotel, or in the Dallas law offices of Mr. Macktal's counsel. However, we recognize the inconvenience and expense involved in such an arrangement. We expect Mr. Macktal to be treated with respect, courtesy, and cooperation.

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PDR FOIA  
KOH90-316 PDR

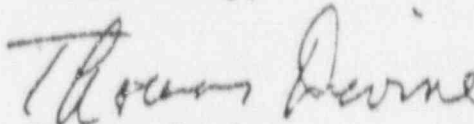
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*11/15*

Stephen G. Burns  
March 5, 1986  
Page Two

It is regrettable that these arrangements have been so difficult. Hopefully, all of the NRC efforts can now be directed to aggressively pursuing Mr. Macktal's safety concerns.

Yours truly,



Thomas Devine  
Counsel for Mr. Macktal

TD:43416

# CASE

(CITIZENS ASSN. FOR SOUND ENERGY)

1426 S. Folk  
Dallas, Texas 75221

214/946-9446

January 27, 1986

**CONFIDENTIAL**

Dear Billie:

This will confirm our previous recent discussions regarding my assisting GAP, as a deputy of GAP, if you will, in the cases of Messrs. [redacted] and Macktal.

My primary concern in assuming that role was that, in so doing, I might in some way be jeopardizing my responsibilities as President of CASE in the operating license proceedings by not fully complying with past Licensing Board directives to advise the Board and parties of potentially significant information.

However, it is my understanding that, based on the advice of counsel (GAP) for these two gentlemen, they would not want to testify or do anything contrary to GAP's instructions at this point. Further, at this point in time, no decision has been made as to what the best next step would be for CASE insofar as the licensing proceedings are concerned regarding these two potential future CASE witnesses. Certainly, things are proceeding as quickly as they possibly could have under the circumstances (especially with my current back problem) in each case to get both of their concerns to the NRC's Technical Review Board so that they could investigate prior to alerting the utility of such investigations. At this point, I believe that it would hamper the NRC's investigation were we to file anything officially with the Licensing Board about their concerns. I definitely believe that we should not drag our feet in this regard, however, and certainly we are not. I am still in the process of working up a concise statement of the concerns of each of these two gentlemen, which would be necessary in order to be able to file anything with the Licensing Board at this point anyway.

In sum, based on our past discussions and upon your advice in your own dual role for GAP/CASE (which is backed up by GAP attorneys and Tony), at this point in time I shall continue to act as a deputy of G/P regarding the concerns raised by these two gentlemen. As such, it is my understanding that the information obtained by me so far is to be considered to be privileged attorney/client information, and I will not use any of it prior to further discussion with you. At some proper point in time, however, I believe it should be presented in the operating license proceedings, one way or another, after a decision has been made as to whether or not these gentlemen will actually be CASE witnesses, or how their concerns will be presented in the proceedings.

Sincerely,

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b7C  
FOIA 90-316

*William Ellis*

*b7C*

*Billie*

*All?*

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

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(202) 463-8600

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DIRECTOR, ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA PRATT  
OFFICE MANAGER

KATHLEEN CUMBERBATCH  
SECRETARY

June 4, 1986

Mr. Joe Crews  
4310 Gaston Avenue  
Dallas, TX 75246

Dear Joe:

You're sure a busy lawyer! That's always a good sign of a good lawyer. I'm sorry we missed each other over the Memorial Day weekend.

I've prepared a list of the activities left in this case and my suggestions as to how the depositions went great last week. Joe really has improved and did very well on his third and final day of deposition. My deposition of Don Brown went fantastic. He will be completely worthless to them as a witness. I will send you copies as soon as I receive them.

1. Complete depositions of Louis Cerda, John McPhase, SAFETEAM investigators, and possibly J.D. Turner.
2. Do motion to compel responses to interrogatories where necessary.
3. Interrogatories to Texas Utilities, if necessary.
4. Proposed stipulations and/or admissions.

Attached to this letter is 5 original subpoenas. The DOL rules require only five days notice, however since respondents have 10 days to file motions for protective orders it's a good idea to use ten days as a rule of thumb for notice.

I've also enclosed a copy of stipulations drafted and used in another DOL case, also against Brown & Root. Finally, I've enclosed a notice of my temporary withdrawal on this case. Please attach it with your notice of appearance, by cover letter to Judge Murray unless you think it will weaken your position to argue for a continuance. You should file a notice of appearance as soon as possible.

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b7C  
FOIA: 90-316

670 Austin

Alis

I propose the following:

The arrangement on fees and expenses. In the event that the case settles or we win, we will attempt to get full reimbursement for all fees and expenses. To date I've expended approximately (120) hours on this case. I normally get (\$75.00) per hour on these types of cases, when they settle. We have expended approximately (\$2,300.00) to date on this case, including airfare (3 trips to Texas), expenses, and in deposition expenses. We must get full recovery on expenses, but you could play with my fees a bit on my hourly rate. In other cases we have co-counselled we have allocated fees on a percentage basis, i.e. 80 cents on the dollar.

For the next few days I will be very busy "closing up shop" for the summer. I will be leaving Washington, D.C. on June 9th to begin BAR-BRI review in Wisconsin. I will call my office on a daily basis for emergency messages but will be virtually inaccessible.

My chief concern is that you move quickly to complete depositions of our key witnesses, and that we agree on the strategy for the "smoking gun" memo. Also, Judge Murray seems like a pretty "hard woman" and I am unsure of how she will respond to your request for a continuance of the hearing. My suggestion is that you get Brown & Root to agree to the delay so it is a joint request. (Good luck!). Please let me know as soon as possible about the delay so I won't worry about it.

Joe has copies of all of the discovery material, his depositions, and the memorandum on his experience at CPSES. His phone number is: [REDACTED] and his address is [REDACTED]

On a strategy note I want to present a course of events which I could cause to occur if you and I think it would be of benefit to this case.

The NRC has recently proposed a \$120,000.00 civil penalty against Texas Utilities (TU) for incidents of harassment and intimidation (attached). TU has also recently paid a \$40,000.00 civil penalty levied in 1983 for harassment and intimidation (attached). They continue to oppose another \$40,000.00 civil penalty on still another incident of harassment. No other utility in the country has more than one \$40,000.00 civil penalty for harassment and intimidation, and there have only been 3 others total (one at TMI, one at Catawba, and one at Wolf Creek).

6,7C portions

In the course of fighting the operating license issues in front of a very sympathetic administrative judge we have a forum to try to raise Joe's termination as a recent, as opposed to historical example, of the difficulties toward "whistleblowers." The information in a well written pleading would cause tremendous pressure on Brown and Root by Texas Utilities to get rid of this case. Another avenue of this strategy would be to have us (you) call the TU lawyer and, in determining TU's involvement in this case lay out our intention to move these issues into another forum.

The benefit of "stirring up the NRC pot," is that the only real threat this case is to TU is what impact a win here would have on the OL hearing. That impact can be either extremely dramatic, a veiled threat, or a fact of the future.

If you think we should pursue a collateral line of attack through the NRC let's discuss it as soon as possible. I will have a complete copy of the file with me in Wisconsin.

This is a good case. I hope you enjoy it and that it doesn't become a problem.

I look forward to meeting with you soon.

Sincerely,

*Billie*  
Billie Garde /by BP

LAW OFFICES

JACKSON & CAMPBELL P.C.

ONE LAFAYETTE CENTRE

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 L. LORAN  
 ALAN AMITTE & SUTLAND  
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 DIRECT BILL NUMBER

FAX TRANSMITTAL SHEET

Date: 10/20/89

Please deliver the document transmitted herewith to:

Name: Virginia Van Cleave

FIRM: \_\_\_\_\_

City/State: \_\_\_\_\_

Receiving Fax Telephone No.: 817/860-8211

Total No. of Pages (incl. this page): 5

Message: Please deliver this document to Ms. Van Cleave ASAP!

If there is a problem with this transmission, please contact (202) 467-1826.

Client/Case \_\_\_\_\_  
71173  
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Fax document forwarded at the request of:  
DHCKW  
 Attorney \_\_\_\_\_

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 A/19

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\* ALSO EMPLOYED BY BENTLEY  
 \* ALSO EMPLOYED BY MARSH  
 \* ALSO EMPLOYED BY LAMM  
 \* LEVINE  
 \* EMPLOYED BY HARRISON BULL

DIRECT DIAL NUMBER

457-1634

October 20, 1989

VIA HAND-DELIVERY AND  
BY TELECOPIER

Stephen M. Kohn, Esquire  
 Kohn, Kohn & Colapinto  
 817 Florida Avenue, N.W.  
 Washington, D.C. 20001

RE: Joseph J. Macktal, Jr. v. Billie P. Garde, et al.  
 (United States District Court for the District of  
 Columbia; Civil Action No. 89-2533)

Dear Mr. Kohn:

Our client, Billie P. Garde, Esquire, was recently served with a Subpoena issued by the Nuclear Regulatory Commission (Case No. 4-89-008). A copy is enclosed for your review and consideration. As you will note, the Subpoena purports to require Ms. Garde to appear and to give testimony before the NRC. In addition, Ms. Garde is required to produce the following material:

(A)ny and all documentation in your custody, control, or possession, regarding conversations and/or meetings between you and Mr. Joseph J. Macktal and between Mr. Macktal and Mr. Lewis Austin, the President of Brown & Root, Inc. These documents shall include, but not be limited to, tape recordings, transcriptions of recordings, personal business notes, or any other documentation or substantiation of the above-referenced matters.



LAW OFFICES

JACKSON & CAMPBELL P.C.

Stephen M. Kohn, Esquire  
October 20, 1989

Page 2

On its face, the subpoena purports to require the production by Ms. Garde of documents which would ordinarily be subject to a claim of attorney-client privilege by your client, Mr. Joseph J. Macktal. In addition, it is anticipated that Ms. Garde will be requested to answer questions which, in order to provide complete answers, may require the disclosure of information which would ordinarily be the subject of an attorney-client privilege.

The purpose of this letter is to secure from Mr. Macktal, through your good offices, an express waiver of his attorney-client privilege so that Ms. Garde's testimony and document production will not be limited. We have enclosed a written form for your client to execute in that regard.

With respect to the issue of whether an attorney-client privilege still attaches either to any oral communication or written communication, please consider the following:

It is beyond dispute that Mr. Macktal has waived his attorney-client privilege in the context of the above-referenced litigation. See DR 4-101, n.19, Code of Professional Responsibility and Opinions of the D.C. Bar Legal Ethics Committee (1988). See also ABA Canon 37 and ABA Opinions 302 (1940) and 18 (1930). It may be argued, however, that the waiver by Mr. Macktal by the filing of the above-referenced matter constitutes a limited waiver, rather than a complete waiver, of the privilege. It is that possibility that has prompted this request.

It is our understanding, however, that Mr. Macktal has not only filed the above-referenced action, but has also testified extensively before the Senate Committee on Environment and Public Works in May of 1989 on the subject matters referenced in the subpoena. Thus, it would appear that Mr. Macktal may have waived his privilege by voluntary disclosure of the contents of what would otherwise have been privileged attorney-client communications. See In Re Subpoenas Duces Tecum, 738 F.2d 1367, 238 U.S. App. D.C. 221 (1984) (having willingly sacrificed its attorney-client confidentiality by voluntarily disclosing material in an effort to convince the Securities and Exchange Commission that formal investigation or enforcement action was not warranted, corporation could not later selectively assert protection of those same documents under attorney-client privilege); United States v. Jones, 696 F.2d 1069 (4th Cir. 1982) (any voluntary disclosure by the client to a third-party waives the privilege not only as to the specific communication disclosed, but often as to all other communications relating to the same subject matter). See also In Re Sealed Case, 676 F.2d 793, 219 U.S. App. D.C. 195 (1982).

LAW OFFICES

JACKSON & CAMPBELL, P.C.

Stephen M. Kohn, Esquire

October 20, 1989

Page 3

Given Mr. Macktal's expressed interest in full and complete disclosure of matters relating to suspected violations of NRC regulations and requirements and in order to permit Ms. Garde to disclose to the NRC, both by testimony as well as documents, whatever information she may possess on these subjects without the risk of potential liability to your client for such disclosure, we request that you discuss this matter with your client and secure his written waiver of what attorney-client privilege, if any, still exists.

If we do not receive the written waiver form by the close of business on Tuesday, October 24, 1989, then we will advise the NRC accordingly.

Sincerely yours,

JACKSON & CAMPBELL, P.C.

By: 

David W. Cox

DHC/gv  
Enclosure As Stated

WAIVER OF ATTORNEY-CLIENT PRIVILEGE

I, Joseph J. Macktal, after having conferred with counsel of my choice, do hereby expressly waive, on behalf of myself, my personal representatives, my trustees, my heirs, and my successors and assigns, any and all attorney-client privilege that may otherwise obtain with respect to any communication (whether oral or in writing) to or from Billie P. Garde, Esquire, as to any and all matters relating to or arising out of her legal representation, whether in her individual capacity or in the capacity of an employee of any other firm or organization, of me.

I understand that by executing this document, I am permitting Ms. Garde to disclose to third-parties any and all communications between myself and Ms. Garde and I am expressly releasing Ms. Garde from any and all liability to me for such disclosure.

Nothing herein shall be construed to, nor is it intended to, waive any claim which I have asserted (and which Ms. Garde disputes) in connection with the matter styled as Joseph J. Macktal, Jr. v. Billie P. Garde, et al., Civil Action No. 89-2533, in the United States District Court for the District of Columbia.

\_\_\_\_\_  
Joseph J. Macktal

Date: \_\_\_\_\_

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

LAW OFFICES

BISHOP, COOK, PURCELL & REYNOLDS

1200 SEVENTEENTH STREET, N.W.  
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(202) 857-9800

WRITER'S DIRECT DIAL

TELEX 440574 INTLAW UJ  
TELECOMER (202) 857-9846

May 18, 1987

Billie Pirner Garde, Esquire  
Government Accountability Project  
104 E. Wisconsin Avenue  
Appleton, Wisconsin 54911

Re: Joseph Macktal v. Brown &  
Root, Inc., Case No.  
86-ERA-23

Dear Ms. Garde:

I learned today from your office that you have not yet received a copy of the Secretary's May 11 Order in the above-captioned matter. For your convenience, and so that we may confer on our response to the Secretary's Order promptly, I enclose a copy herewith.

Sincerely,



Richard K. Walker

Enclosure.

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## BISHOP, COOK, PURCELL &amp; REYNOLDS

200 SEVENTEENTH STREET, N.W.  
 WASHINGTON, D.C. 20036-3006  
 (202) 857-9800

TIT

WRITER'S DIRECT DIAL

May 15, 1987

TELEX: 440574 INTLAW LI  
TELECOM: (202) 857-9800HAND DELIVERY

Anthony Z. Roisman, Esquire  
 1401 New York Avenue, N.W.  
 Suite 600  
 Washington, D.C. 20005

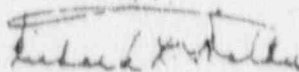
Re: Joseph Macktal v. Brown &  
 Root, Inc., Case No.  
 86-ERA-23

Dear Mr. Roisman:

Enclosed is a copy of a letter, sent to Billie Garde last night by Federal Express, that concerns an Order recently issued by the Secretary of Labor in Joseph Macktal's Section 210 suit. For your reference, a copy of the Order is also enclosed.

Since you are a signatory to the Agreement by which that suit was settled, and since the Order has a direct bearing upon the parties' ability to perform under their Settlement Agreement, I know you will be interested in these materials.

Sincerely,



Richard K. Walker

Enclosures

A/2

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 232-8551

MIDWEST OFFICE  
104 E. WISCONSIN AVE.-B  
APPLETON, WI. 54911

May 22, 1987

Richard K. Walker, Esq.  
Bishop, Cook, Purcell and Reynolds  
1200 Seventeenth Street, N.W.  
Washington, D.C. 20036-3006

RE: Macktal v. Brown & Root, Inc.,  
Case No. 86-ERA-23

Dear Mr. Walker,

I have now received the Secretary's May 11, 1987, order in the, alas, neverending story of the above-styled case.

Your letter detailing the legal argument which you would respond to this order with was interesting, although I am not sure it was compelling. Frankly, the public interest concern of the Secretary was a refreshing departure from the history of the handling of these cases. It appears that, at least for public consumption, the Secretary intends to enforce the spirit of the law. I don't want to discourage or frustrate that initiative.

On the other hand I am sympathetic to your concerns that the settlement was a private resolution to this dispute which your client has an interest in keeping private. In this case I believe your concern is well-grounded. GAP, too, has an interest in this settlement being kept private - and I am sure our client would agree that he would not want to be in breach of the agreement. I am not sure that he would agree with your believe that the settlement was "fair and equitable," however, and may view this as an opportunity to get some relief from the administrative process not available to him through the aborted hearing.

Further, it is my opinion that Mr. Macktal would not be in breach of the agreement if he complied with a direct order of the Secretary. To the contrary, I think any effort by Brown and Root to sue him for breach would result in substantial litigation and exposure of the settlement contract to a wider range of scrutiny.

Therefore, without addressing the merits of your legal arguments, I propose that you first try to informally work this out with the Office of Administrative Appeals for the Secretary. I am sure you

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must know some of the attorney-advisors at the office who will be sympathetic to your concerns.

We will not oppose your formal or informal efforts to change the Secretary's mind on this matter, and would cooperate with an "in camera" review. If, by June 11, 1987, you have not resolved the matter to your satisfaction I suggest that we file a request for an extension and/or a stay until you have had an opportunity to brief the matter.

In short, I won't do anything until June 11, 1987, and I will cooperate with you in terms of the time you need to make your argument, but I don't agree with the legal position that you are taking and so I cannot support the merits of your argument.

If this is not satisfactory please call to discuss the matter further.

Sincerely,



Billie Pirner Garde, Esq.

cc: Anthony Z. Roisman, Esq.

Billie Garde  
Government Accountability Project  
1555 Connecticut Avenue N.W.  
Washington, D.C. 20036

Dear Billie:

Enclosed is a chronicle outline of the conversations, and meetings with Louis Austin. I have some notes made after each meeting, but they are in storage in Stephenville Texas. During this time period I purchased a device that attached to my phone to record conversations. I believe I recorded the April 17th conversation with Louis Austin.

February 14, 1986

I called Louis Austin at Brown and Root main office in Houston, set up meeting for February 21, 1986

February 21, 1986

Met with Louis Austin and another person, introduced as the personal director. Mr. Austin stated he was a lawyer, but didn't practice. I said like a in house attorney, they agreed. I told Louis Austin I thought I was improperly fired for bringing safety concerns to Louis Jerda, and that I didn't want to cause any trouble just get my job back. The attorney took notes. Louis told me he would investigate the matter next week when he was in Glen Rose, then get back with me.

March 25, 1986

Met with Louis Austin at Cleburne Airport.  
Discussed

Back pay- job back as foreman  
Front pay in line of job back. No dollar figure mentioned.

April 12, 1986

Met in Stephenville at Holiday Inn under pretense of settling. Louis Austin asked me to come to Houston, but I refused, offered 1000 dollars to come down there. He flew to Stephenville, rented room at Holiday Inn with attorney. Louis stated that it appeared some harrasment took place. Wanted to know what caused dissension with Louis Jerda in order to reprimand. Asked if I had been to HQ, and what issue I took to them. Louis said that Bishop, Liberman, Cook stated they won preliminary investigation on technicality, but would loose in hearing, wanted to know how much I wanted to settle. I told Austin I wanted the back pay and my job back. Briefly talked about working on another job, Louis stated he felt there was some wrong doing on their part, and would get back with me before deposition, but he would have to settle outside the attorneys.

A/23



April 17, 1986

7:00 pm Louis Austin called, had been turkey hunting said he felt Brown & Root had some liability and would give me fifteen thousand dollars if I dropped the DOL claim, and he would take care of the attorneys, but I would have to fire GAP first. I told him it would have to be settled through GAP. (I believe I taped this conversation)

*6170 partners*

GOVERNMENT ACCOUNTABILITY PROJECT  
1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

RECEIVED 12 15 1986  
74, 11/10/86

(202) 232-8550

GOVERNMENT ACCOUNTABILITY PROJECT  
MIDWEST OFFICE  
3424 MARCOS LANE  
APPLETON, WISCONSIN 54911

December 10, 1986

Mr. MacNeil Watkins  
Mr. Richard Walker  
Bishop, Liberman, Cook, Purcell  
and Reynolds  
1200 Seventeenth Street, NW  
Washington, D.C. 20036

Re: Macktal v. Brown & Root,  
86-ERA-23

Dear Gentleman,

To date I have not received any proposal papers in this case, notwithstanding my repeated calls to your office and your promise to deliver draft papers to me in Washington and then to mail them to me in D.C.

Although I am sure it could not be the case, your actions appear to be a deliberate attempt to not proceed with the agreements of last month.

Please provide me with the necessary documents immediately. I will be in Appleton until Sunday and then be in Washington, D.C. from Monday December 15 to 17. However, I will be involved in a Comanche Peak prehearing conference.

Sincerely,

/s/

Billie Pirner Garde  
Attorney for Complainant

cc: Judge Murray

CS

EXHIBIT

# 4  
lm 10-27-89

*Billie*

A

2155  
A124

14-00010  
121

Mr. MacNeil Watkins  
Mr. Richard K. Walker  
1200 Seventeenth Street  
Washington, D.C. 20036

RE: Macktal v. Brown and Root,  
Case No. 86-23

Dear Messrs Watkins and Walker:

Pursuant to our discussion this morning regarding the settlement of the Macktal case I have prepared proposed settlement documents, using the Meddie Gregory settlement as a model. Not included in the settlement is the language restricting Mr. Macktal from pursuing these claims in other regulatory forums, and the binding of Mr. Roisman and myself from personally bringing up his claims.

As I have informed both of you, Mr. Macktal is and has been relying on your promise to us and to the Judge that this matter would be resolved by December 18, 1986, which is tomorrow. To the extent that he is harmed by your failure to adhere to the agreement it is our position that he is entitled to some type of additional consideration.

Frankly, Mr. Macktal's family will not have a Christmas if you do not provide the settlement check by Friday. I know that is not your intention, but it is our concern. Mr. Macktal's children have no quarrel with Brown and Root, nor do your clients with them so please get this processed immediately.

Sincerely,

Billie Pirner Garde  
Counsel for Complainant

A/25

Release

A

2156

LAW OFFICES OF  
BISHOP, LIBERMAN, COOK, PURCELL & REYNOLDS  
1200 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036  
(202) 857-9800

TELEX #4057A INTLAW VI  
TELECOPIER (202) 857-9848

IN NEW YORK  
BISHOP, LIBERMAN & COOK  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036  
(212) 704-0100  
TELEX 222187

WRITERS DIRECT DIAL  
(202)

December 18, 1986

BY FEDERAL EXPRESS  
Airbill No. 759859531

Ms. Billie P. Garde  
Government Accountability Project  
3424 N. Marcos Lane  
Appleton, Wisconsin 54911

RE: Macktal v. Brown & Root, Inc.,  
Case No. 86 ERA 23.

Dear Ms. Garde:

Enclosed are copies of the settlement papers in the above-captioned matter that have been redrafted to reflect the matters that you and I discussed over the telephone this evening. In addition, you will note that I have changed the Joint Motion To Dismiss and proposed Order, because I am not sure that Judge Murray would be likely to accept the format that you provided. Further, inasmuch as the parties agreed that this settlement would remain confidential, it clearly would be inappropriate for the settlement documents to be submitted to the judge, and she could not properly reference them in her order if she has not seen them. Trusting that you would find the changes that I have made acceptable, I have executed the Joint Motion on behalf of Brown & Root.

As you know, the basic terms of the settlement have been discussed with my client. The specific language in the enclosed documents, however, could not be reviewed by the client until tomorrow morning. I anticipate no difficulties, but I will give you a call if any problems should arise. In light of your concern that the settlement be finalized soon, I thought it better to go ahead and get the documents to you even though the client has not yet had an opportunity to see them, rather than to hold them up until that review had occurred.

*Release*

A

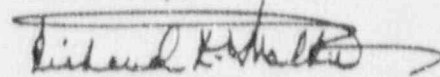
*A/26*

2157

Ms. Billie P. Garde  
Government Accountability Project  
December 18, 1986  
Page 2

As I mentioned over the telephone this evening, I do not agree with your letter of December 17, 1986 in several particulars. In the spirit of the season, however, I will simply assume that any inaccuracies or mischaracterizations were inadvertent and refrain from itemizing them and responding to each. Suffice it to say that I believe with this transmittal we have complied in all substantial respects with commitments made in Dallas on November 18, and that we have been responsive to your expressed desire to finalize this settlement soon.

Sincerely,



Richard K. Walker

LAW OFFICES OF  
BISHOP, LIBERMAN, COOK, PURCELL & REYNOLDS  
1200 SEVENTEENTH STREET, N.W.  
WASHINGTON, D.C. 20036  
(202) 857-9800

TELEX 440574 INTLAW U1  
TELECOPIER 202 857-9846

IN NEW YORK  
BISHOP, LIBERMAN & COOK  
1185 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036  
212 704-0100  
TELEX 222787

WRITER'S DIRECT DIAL  
(202)

December 19, 1986

BY FEDERAL EXPRESS  
Airbill No. 759859586

Ms. Billie P. Garde  
Government Accountability Project  
3424 N. Marcos Lane  
Appleton, Wisconsin 54911

RE: Macktal v. Brown & Root,  
Case No. 86 ERA 23.

Dear Ms. Garde:

Enclosed is the settlement agreement in the above-captioned matter, which I have revised in accordance with our telephone conversation this afternoon. In addition, I am enclosing the Order, which was omitted from last night's transmission to you, and which is to be submitted to Judge Murray along with the Joint Motion To Dismiss.

As I understood our conversation today, I am to send a copy of the settlement agreement to Louis Clark at GAP and copies of the settlement agreement, the Joint Motion, the Order, and the General Release to Tony Roisman at Trial Lawyers for Public Justice Monday morning. You will speak with them and get back to me by Monday afternoon.

*Release*

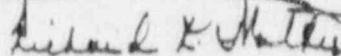
A

*A/27*  
2159

Ms. Billie P. Garde  
Government Accountability Project  
December 19, 1986  
Page 2

Please let me know if there are any questions.

Sincerely,



Richard K. Walker

Enclosures

cc: Louis Clark  
Anthony Z. Roisman


GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202

Washington, D.C. 20036

(202) 232-8550

December 29, 1986

Joseph Macktal  


Dear Joe,

As discussed between you and Tony, the settlement amount is for ~~\$35,000.00~~. Of this amount you will receive ~~\$15,000.00~~ and GAP and TLPJ will receive ~~\$20,000.00~~. This amount represents your entire obligation to GAP and TLPJ for expenses the organizations have incurred and for the fees that we have earned, although as you know the amount of time that we have expended on the case far exceed our payment.

As soon as the check is received or the money is cleared by the bank you will be sent your ~~\$15,000.00~~. Tony and I are trying to figure out a way to do that by the end of the year.

I hope that these documents and related material meet with your approval, and that you can put this matter behind you.

Sincerely,

*Billie*

Billie Pirner Garde

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b7c  
FOIA: 90-316

*A/28*

*b7c, portions A*

2182



*copy to Joe*

*Close file*

LAW OFFICES OF  
BISHOP, LIBERMAN, COOK, PURCELL & REYNOLDS  
1200 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036  
(202) 857-9800

TELEX 440874 INTLAW U1  
TELECOPIER (202) 857-9848

IN NEW YORK  
BISHOP, LIBERMAN & COOK  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10036  
(212) 704-0100  
TELEX 288767

WRITER'S DIRECT DIAL  
(202) 857-9876

January 6, 1986

HAND-DELIVERED

Anthony Z. Roisman, Esquire  
Trial Lawyers for Public Justice  
2000 P Street, N.W.  
Suite 611  
Washington, D.C. 20036

Re: Macktal v. Brown & Root, Inc.  
Case No. 86-ERA-23

Dear Mr. Roisman:

Enclosed is a check in the amount of ~~(\$35,000.00)~~ made out to Mr. Joseph J. Macktal, Jr., and Ms. Billie P. Garde, which represents the full amount to be paid by Brown & Root, Inc., in settlement of the above-captioned matter. This check is being released to you in reliance on a representation made to me over the telephone today that Judge Murray has signed the Order, in the form in which it was submitted in conjunction with the Joint Motion To Dismiss, dismissing Mr. Macktal's case against Brown & Root with prejudice.

In addition, pursuant to our telephone conversation today, I am releasing the check on the condition that within one week from today you will return to me the enclosed conformed copy of the General Release signed by Mr. Macktal. Upon receipt of the signed, conformed copy, I will return to you the copy of the General Release I received from your office earlier today that bears certain interlineations by Mr. Macktal that conform the document approximately, though not exactly, to that attached as Exhibit A to the Settlement Agreement.

*6770, [unclear]*

A

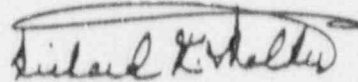
*A/29*

2163

Anthony Z. Roisman, Esquire  
Trial Lawyers for Public Justice  
January 6, 1986  
Page 2

Thank you for your attention to these final details of this settlement and for your cooperation in the negotiation and finalization of the agreement by which the parties to this litigation have resolved their differences.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard K. Walker". The signature is written in dark ink and is positioned above the typed name.

Richard K. Walker

Enclosures

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST  
WASHINGTON, D.C. 20036

(202) 463-8600

ANTHONY Z. ROISMAN  
EXECUTIVE DIRECTOR

ARTHUR BRYANT  
STAFF ATTORNEY

BILLIE GARDE  
DIRECTOR ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA PRATT  
OFFICE MANAGER

KATHLEEN CUMBERBATCH  
SECRETARY

January 6, 1987

Joe Macktal



Dear Joe:

Enclosed is a clean release form for you to sign. Please sign it and return it to me immediately. You may use the enclosed Federal Express form, which has been filled out. The cost will be charged to us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony", written over a horizontal line.

Anthony Z. Roisman

AZR/bp  
enclosure

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b7C  
FOIA- 90-316

67C

A

A/30  
2165

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST

WASHINGTON, D.C. 20036

(202) 463-8600

ANTHONY Z. ROISMAN  
EXECUTIVE DIRECTOR

ARTHUR BRYANT  
STAFF ATTORNEY

BILLIE GARDE  
DIRECTOR, ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA PRATT  
OFFICE MANAGER

KATHLEEN CUMBERBATCH  
SECRETARY

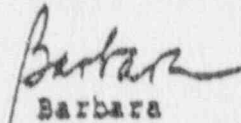
January 6, 1987

Billie Garde  
GAP  
3424 N. Marcos Lane  
Appleton, WI 54911

Dear Billie:

Here is the check from Rick Walker for Joe Macktal. Tony says you can go ahead and send a check to Joe. You should also send us a check for \$8500 (\$5,000 fee plus \$3,500 expenses). I will send an itemized statement later, but we need that money now, so please send it right away (Federal Express for safety's sake).

Love,

  
Barbara

enclosures

6, 7c portions

A

A/31  
2166

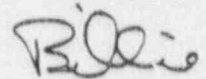
January 7, 1987

Dear Joe,

This check should not be deposited  
or cashed until you verify with me  
on whether I have received a \$35,000.00  
check from Brown & Root.

Hope you have a Happy New Year!

Sincerely,



Billie Pirner Garde

CS

*6, 70 portions*

*A/32*

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST

WASHINGTON, D.C. 20036

*Fig  
Macktal*

(202) 463-8600

ANTHONY Z. ROISMAN  
EXECUTIVE DIRECTOR

ARTHUR BRYANT  
STAFF ATTORNEY

BILLIE GARDE  
DIRECTOR, ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA PRATT  
OFFICE MANAGER

KATHLEEN CUMBERBATCH  
SECRETARY

January 13, 1987

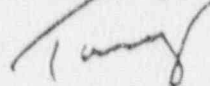
Richard Walker  
Bishop, Liberman, Cook,  
Purcell & Reynolds  
1200 17th Street, NW  
Washington, D.C. 20036

BY HAND

Dear Rick:

Enclosed as promised is the original General Release  
signed and dated by Joe Macktal.

Sincerely,



Anthony Z. Roisman

AZR/bp

*A/37*

*Release*

A

2177

TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST

WASHINGTON, D.C. 20036

*M. [unclear]*

(202) 463-8600

ANTHONY Z. ROISMAN  
EXECUTIVE DIRECTOR

ARTHUR BRYANT  
STAFF ATTORNEY

BILLIE GARDE  
DIRECTOR, ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA PRATT  
OFFICE MANAGER

KATHLEEN CUMBERBATCH  
SECRETARY

January 15, 1987

Joe Marktal



Dear Joe:

Enclosed for your files are copies of the Settlement Agreement and the General Release in their final signed form. Please be sure that you have read and understood the paragraphs on pages 7 and 8 concerning disclosure, since failure to comply with these restrictions could have financial consequences for you.

It has been a pleasure for both Billie and me representing you in this matter. I will follow up with Billie about the other documents you requested. Best wishes to you and your family.

Sincerely,

Anthony Z. Roisman

AZR/bp  
enclosures  
cc: Billie Garde

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b + 7 C  
FOIA: 90-316

*A/3*

*b, 7 C, portions A*

GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 202-8550

Government Accountability Project  
Midwest Office  
3424 North Marcos Lane  
Appleton, Wisconsin 54911  
(414) 730-8533

January 2, 1987

The Honorable Vivian S. Murray  
Administrative Law Judge  
U.S. Department of Labor  
211 Main Street-Suite 600  
San Francisco, CA 94105

RE: Macktal v. Brown and Root,  
86 - ERA - 23

Dear Judge Murray,

Enclosed please find a copy of the JOINT MOTION TO DISMISS WITH PREJUDICE, and a PROPOSED ORDER for your signature. Please execute the order at your earliest convenience and notify the parties of your dismissal of the case.

Thank you for your attention to this matter.

Sincerely,

*Billie Pirner Garde*

Billie Pirner Garde  
Attorney for Complainant

cc: Rick Walker

File  
Macktal

A/33

R



TRIAL LAWYERS FOR PUBLIC JUSTICE, P.C.

COUNSELLORS AT LAW

SUITE 611

2000 P STREET, NORTHWEST

WASHINGTON, D.C. 20036

*File / Mack*

(202) 463-8000

ANTHONY Z. ROISMAN  
EXECUTIVE DIRECTOR

ARTHUR BRYANT  
STAFF ATTORNEY

BILLIE GARDE  
DIRECTOR, ENVIRONMENTAL  
WHISTLEBLOWER PROJECT

BARBARA MAFF  
OFFICE MANAGER

KATHLEEN CLUMBERBATCH  
SECRETARY

January 28, 1987

Joe Macktal



Dear Joe:

Enclosed is a letter of reference for you from Brown and Root, Inc., as promised in the Settlement Agreement.

Sincerely,

Anthony Z. Roisman

AZR/bp  
enclosure

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions b4 7C  
FOIA- 90-316

*A/36*

*6, 7C, portions*

A

2192



January 16, 1987

Mr. Joseph Macktal  
[Redacted]

Dear Mr. Macktal:

This letter will confirm that you were employed by Brown & Root, Inc. from January 31, 1985 to January 3, 1986 in the capacities of Electrician and Electrical Foreman. Your rate of pay at the time you left the employ of Brown & Root, Inc. was [Redacted]

Sincerely,

*K. R. Trainer*  
K. R. Trainer  
Senior Manager  
Personnel Services

/ym

in accordance with the Freedom of Information Act, exemptions b7C  
FOIA 90-316

a Halliburton Company

A/37

b7C

A

219+





He was req'd to falsify training records -  
Vietnamese Van ~~-----~~ - Tan - couldn't speak  
English but no way could he have  
read procedures etc.

? Using FSEs which were not current

- Craft would be assigned to assist QC  
for inspection

Wm may on 9/10, 11, 12  
They actually did do some insp.

They would make changes to support RFIC notify  
Engr so Engr could change drawings!  
Jet. Box 244 G

- Conduit 12074 to jet box - conduit  
is 3" hole in box is 2" -  
Engr'g said enlarge hole to 3"

- Jet Box at RCP not being maintained  
as req'd by: CMP 8-1 & CMP 14.1  
Bus bar in box is filthy

- SS flex is being cut by CS pipe  
possible root problem  
Contrary to: ECP 19 A or ES 100

- He will provide a letter outlining the Safteam  
response 1A to him.

Louis set up app T - they talked for 5 min  
Joe didn't talk - John did all talking.

He says that they were probably right  
in busting him back simply because of  
his lack of experience. He went to ~~busy~~  
school at night to follow procedures however,  
apparently this is not the way they wanted  
to do things.

One other contributing factor was training shifts.  
A lot of new people - train for a  
week by reading procedures. Then  
people would be assigned. Joe was to  
sign off training shifts however the length  
of time shown for doing certain training  
activities were not proper. He did  
sign off, but objected. This occurred  
when he went on night shift in July -  
He rec'd a whole new crew of 10.