

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
US NRC ALJ

ATOMIC SAFETY AND LICENSING BOARD PANEL

JUN 20 1994

Before Administrative Law Judge

Doc Number 2

Morton B. Margulies

In the Matter of  
The Complaint Against  
B. K. Lunde

Docket No. 94-01-PF

ASLBP No. 94-698-01-PF

June 20, 1994

NOTICE OF HEARING

Notice is hereby given, pursuant to 31 U.S.C. § 3803(g)(2)(A) and 10 C.F.R. § 13.12, that a hearing will be held in the captioned matter, commencing at 9:30 a.m. on September 20, 1994, in the Nuclear Regulatory Commission Hearing Room, Room T-3 B45, Two White Flint North, 11555 Rockville Pike, Rockville, Maryland. The scheduled time and place may be changed as provided for in 10 C.F.R. §§ 13.18(b)(1) and 13.32.

The nature of the hearing is to adjudicate the complaint of the Nuclear Regulatory Commission (NRC or complainant) served May 26, 1994, alleging that the defendant B. K. Lunde, on August 30, 1993, submitted two claims to it in order for the defendant to obtain monies from the government to which she is not entitled, in violation of 31 U.S.C. § 3802(a)(1). The NRC claims penalties in the total amount of \$10,000.00. Defendant, in an answer served June 9, 1994, denies all allegations of wrong doing.

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In Count I, of the two-count complaint, the NRC alleges that the defendant on August 30, 1993 submitted to it a travel voucher that included nine claims for lodging for the dates of July 16, 17, 23, 24, 25 and 30, 1993 and August 1, 2 and 20, 1993 in the total amount of \$393.93. Complainant alleges that the establishments defendant claimed to have stayed at on those dates did not exist and that the receipts submitted in support of the claims were fabricated and false. It further alleged that for the specified dates defendant stayed with friends and/or relatives and incurred no reimbursable lodging expenses. The NRC further alleges that defendant signed the voucher certifying that it was true and correct to the best of her knowledge and belief when she knew or had reason to know that the voucher was false, fictitious, or fraudulent.

Complainant seeks a penalty in the amount of \$5,000.00 for the claim the NRC alleges was in violation of 31 U.S.C. § 3802(a)(1) and which it did not pay.

Complainant realleges in Count II all of the allegations made in Count I, except that the second August 30, 1993 voucher allegedly covers three lodging claims for the dates of August 21, 22 and 27, 1993 for a total amount claimed of \$162.00. Similarly a second penalty in the amount of \$5,000.00 is sought.

The legal authority under which the hearing is to be held is the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§ 3801-3812. Jurisdiction is asserted under 31 U.S.C. § 3803. The procedures for the conduct of the hearing are contained in 10

C.F.R. §§ 13.1-13.47. The Federal Rules of Evidence may be applied where appropriate.

As provided for in 31 U.S.C. § 3803(f) the presiding officer will determine (1) the liability of the defendant under section 3802 and (2) if the defendant is determined to be liable under such section the amount of any civil penalty to be imposed.

The law provides that for a false claim, a defendant shall be subject to, in addition to any remedy that may be prescribed by law, a civil penalty of not more than \$5,000.00 for each such claim. 31 U.S.C. § 3802(a)(1); 10 C.F.R. § 13.3(a)(1)(iv).

The names, addresses and telephone numbers of counsel for the parties are as follows:

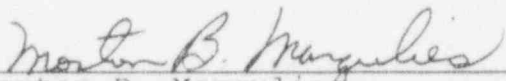
For the Nuclear Regulatory Commission, Daryl M. Shapiro, Esq., Office of the General Counsel, Mail Stop O-15 B18, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504-1606, FAX (301) 504-3200.

For B. K. Lunde, Paul H. Rosenberg, Esq. and Raymond Rosenberg, Esq., The Rosenberg Law Firm, 1010 Insurance Exchange Building, 505 Fifth Avenue, Des Moines, Iowa 50309, (515) 243-7600, FAX (515) 243-0583.

The parties should confer and shall notify the presiding officer in writing by July 20, 1994, when a prehearing conference should be held to discuss the matters set forth in 10 C.F.R. § 13.19(c) in preparation for a hearing. It would not be premature for the parties to begin discussing compromise or settlement when they confer.

The filing and service of papers in the proceeding shall be in accordance with 10 C.F.R. § 13.26. Documents filed with the Administrative Law Judge through July 8, 1994 shall be sent to Mail Stop EW-439, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Following July 8 the Mail Stop shall be T-3 F23.

It is so Ordered.

  
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Morton B. Margulies  
CHIEF ADMINISTRATIVE LAW JUDGE

June 20, 1994

Bethesda, Maryland

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of The  
Complaint Against:

B. K. Lunde

Docket No. 94-01-PF


ASLBP No. 94-698-01-PFC

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing NOTICE OF HEARING in the above-captioned proceeding has been served upon the following persons by U.S. Mail first class, except as otherwise noted, this 21th day of June 1994:

- \* Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555
- \* Daryl M. Shapiro, Esq.  
Office of the General Counsel  
Mail Stop 15 B 18  
U.S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Paul H. Rosenberg, Esq.  
Raymond Rosenberg, Esq.  
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1010 Insurance Exchange Building  
505 Fifth Avenue  
Des Moines, Iowa 50309

  
James M. Cutchin, V

- \* Served via internal NRC mail delivery.