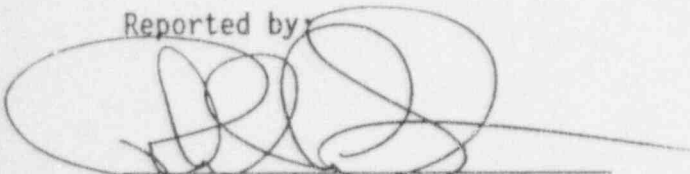


Title: FERMIL POWER PLANT:
ALLEGED EMPLOYMENT DISCRIMINATION AGAINST A QUALITY ASSURANCE
SPECIALIST

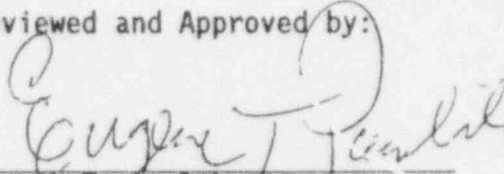
Licensee: Case Number: 3-93-013R
Detroit Edison Company Report Date: May 31, 1994
2000 2nd Avenue Control Office: OI:RIII
Detroit, Illinois 48226 Status: CLOSED
Docket No.: 50-341

Reported by:



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Office of Investigations
Field Office, Region III

Reviewed and Approved by:



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WARNING

The attached document/report has not been reviewed pursuant to Title 10 CFR Subsection 2.790(a) exemptions nor has any exempt material been deleted. Do not disseminate or discuss its contents outside NRC. Treat as "OFFICIAL USE ONLY."

SYNOPSIS

On August 6, 1993, an investigation was initiated by the U.S. Nuclear Regulatory Commission (NRC), Region III (RIII), Office of Investigations (OI), concerning an allegation that Detroit Edison Company (DECo), through the director of quality assurance at Fermi Power Plant (Fermi), discriminated against a quality assurance specialist (QAS) by terminating his employment after that specialist allegedly had continuous contact with the NRC regarding his quality assurance audit findings that were critical of various Fermi programs.

Based upon the evidence available, the OI investigation did not substantiate the allegation that DECo discriminated against the QAS by terminating his employment for his continuous contact with the NRC regarding his quality assurance audit findings that were critical of various Fermi programs.

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ACCOUNTABILITY

The following portions of this Report of Investigation (Case No. 3-93-013R) will not be included in the material placed in the Public Document Room. They consist of pages 3 through 36.

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TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS	1
ACCOUNTABILITY	3
APPLICABLE REGULATIONS	7
LIST OF INTERVIEWEES	9
DETAILS OF INVESTIGATION	11
Purpose of Investigation	11
Background	11
Coordination with the NRC Staff	11
Coordination with the Regional Counsel	11
Allegation (Alleged Employment Discrimination Against a Quality Assurance Specialist)	11
Summary	11
Evidence	12
Conclusions	34
LIST OF EXHIBITS	35

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APPLICABLE REGULATIONS

Allegation: Alleged Employment Discrimination Against a Quality Assurance Specialist

10 CFR 30.7: Employee protection (1993 Edition)

(a) Discrimination by a Commission licensee . . . against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, and privileges of employment . . .

(1) The protected activities include but are not limited to:

(i) Providing the Commission information about possible violations of requirements imposed under either of the above statutes . . .

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds . . . An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by nonprohibited considerations.

Section 210: Energy Reorganization Act (ERA)

(a)(1) No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee) . . .

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under the Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration of enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954, as amended;

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LIST OF INTERVIEWEES

	<u>EXHIBIT</u>
BRADISH, Thomas, Supervisor, Nuclear Quality Assurance	12
GOODMAN, Lynn, Director, Nuclear Quality Assurance	10
MARTIN, Jimmy Lee, Engineer, Licensing	2
NOLLOTH, Jim, Superintendent, Maintenance	22
SZKOTNICKI, Robert, Supervisor, Nuclear Quality Assurance	20
WALD Jr, John, Supervisor, Technical Group	9

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DETAILS OF INVESTIGATION

Purpose of Investigation

This investigation was initiated to determine whether the Detroit Edison Company (DECo) discriminated against a quality assurance specialist (QAS) by terminating that individual's employment after he allegedly had numerous contacts with the NRC regarding his quality assurance (QA) audit findings that were critical of various Fermi Power Plant (Fermi) programs.

Background

On August 6, 1993, an investigation was initiated by the U. S. Nuclear Regulatory Commission (NRC), Region III (RIII), Office of Investigations (OI) (Exhibit 1). In April 1993, the QAS was deselected from his position in the Quality Engineering Group as a result of an economic downsizing reorganization at Fermi. The QAS alleged that he was the oldest and most experienced QA person in his group; yet he was the only QA person deselected. The QAS alleged that he conducted a number of audits and reviews with findings that were critical of various Fermi programs and investigations. Because of his QA reports, a previous director of QA allegedly told the QAS in 1991 that he (the QAS) would never be promoted. In 1992, the QAS was critical of quality control and, in turn, was allegedly criticized and assaulted (a paper clip was thrown at his head by a QA manager). In 1993, the QAS was allegedly criticized by a quality engineering supervisor for going too far during a review of an internal investigation (Exhibit 1, pp. 1, 2).

On July 26, 1993, the QAS was terminated from employment with Fermi when he was not re-selected by any Fermi organization (Exhibit 2, pp. 155-156).

Coordination with the NRC Staff

On October 10, 1993, Investigator Anderson met and discussed with Bruce BURGESS, Chief, Operational Programs, NRC:RIII, and Kombiz SALEHI, Inspector, NRC:RIII, the results of an NRC inspection at Fermi.

Coordination with the Regional Counsel

This investigation was initiated with the concurrence of Bruce A. BERSON, NRC:RIII Regional Counsel, that if substantiated, the allegation would involve violations of NRC rules and regulations.

Allegation: Alleged Employment Discrimination against a Quality Assurance Specialist

Summary

The following individuals were interviewed by OI:RIII on the dates indicated regarding the allegation that the Fermi director of QA discriminated against a QAS by terminating his employment at Fermi after the QAS repeatedly notified the NRC regarding his quality assurance reviews that were critical of various Fermi programs. The pertinent testimony provided by these individuals is documented in the Evidence section of this report.

<u>Name</u>	<u>Position</u>	<u>Date of Interview(s)</u>
Jimmy Lee MARTIN	Engineer, Licensing	March 7, 1994
John WALD, Jr.	Supervisor, Technical Group	March 8, 1994
Lynn GOODMAN	Director, Nuclear QA	February 2, 1994
Thomas BRADISH	Supervisor, Nuclear QA	February 2, 1994
Robert SZKNOTNICKI	Supervisor, Nuclear QA	February 2, 1994
Jim NOLLOTH	Superintendent, Maintenance	February 2, 1994

Evidence

1. MARTIN stated that he became an employee of DECo's Fermi QA Auditing Group in September 1985 (Exhibit 2, p. 3).
2. MARTIN, in a letter to DECo's Human Resources Department, dated April 8, 1993, alleged that he was being terminated from Fermi due to quality concerns that he had identified. MARTIN contended that "Many of these concerns were the result of failures, (sic) that were the responsibilities of the Quality Assurance Management (sic) and Supervision" (Exhibit 3, p. 2).
3. MARTIN contended that BRADISH, the QA inspector group supervisor, harassed and threatened him (MARTIN), because Martin identified several major concerns with the inspection program (Exhibit 3, p. 3).
4. Martin alleged that during the 1989 and 1991 audits of the inspection group, he identified concerns regarding the ". . . Qualification/Certification of QA inspectors." Allegedly, at a subsequent meeting, STAFFORD, the nuclear QA general director, ". . . blamed me for Mr. Bradish's failure to adequately implement the program" (Exhibit 3, p. 3).
5. MARTIN alleged that in a 1990 audit of the Evaluation and Corrective Action Program, BRADISH was aware of a discrepancy but refused to issue a required Deviation Event Report (DER) for resolution. Consequently, MARTIN issued a DER for the discrepancy. When this issue was discussed with BRADISH, BRADISH allegedly became irate, refused to write up the condition, threw a large paper clip at MARTIN, and told MARTIN that if MARTIN issued the DER, he (MARTIN), ". . . will get the damned thing shoved up your ass" (Exhibit 3, pp. 3-4).
6. MARTIN alleged that in the same audit, a condition of an undocumented QA verification (which was allegedly required) was identified. MARTIN again alleged that he tried to discuss this with BRADISH, who became verbally irate. MARTIN alleged that he subsequently found a QA inspector who issued a DER for resolution (Exhibit 3, p. 4).
7. MARTIN alleged that in a 1991 audit of the Measuring and Test Equipment (M&TE) Program, several concerns were identified; that he (MARTIN) was

working with the Tech Engineering Group in resolving the conditions; and that BRADISH, who was now the audit group supervisor (MARTIN's group supervisor), began to interfere with an adequate resolution. When MARTIN refused to accept the proposed action for closeout of the DER, BRADISH allegedly became very irate. MARTIN stated, "I was later able to convince him (BRADISH) and the Tech Group that the records were required to be vaulted" (Exhibit 3, p. 5).

8. MARTIN listed five additional quality-related concerns that he had with the QA management and supervisors: 1. Fire Protection Program--organization and implementation; 2. Corrective Action--management closeout of DER's; 3. Control of M&TE--use records, history folders and qualification; 4. NQA Inspection--qualification/certification and implementation; 5. NQA Audits--function and independence of auditors. MARTIN did not elaborate on the additional concerns (Exhibit 3, p. 5).
9. MARTIN alleged that younger, less qualified personnel were selected for the audit and surveillance groups. MARTIN added that BRADISH, who had subsequently been transferred to audit group supervisor, was now able to retaliate against him (MARTIN), because of MARTIN's discussing the quality concerns with the NRC, and because of his (MARTIN's) age (Exhibit 3, p. 6).
10. On May 25, 1993, MARTIN met with investigators of NRC OI:RIII and provided information regarding his alleged employment discrimination by DECo for his providing safety concerns to the NRC. MARTIN stated that he was de-selected from his current position as a QA specialist during an economic downsizing reorganization at Fermi (Exhibit 4, p. 1).
11. MARTIN stated that he was the only auditor in the quality engineering group not placed in another position. MARTIN indicated that he was the oldest, age-wise, and the most experienced QA inspector in his group (Exhibit 4, p. 1).
12. In addition to the concerns raise in the April 28, 1993, letter, MARTIN stated that he had been involved in a review of the security department as result of the KARALEWITZ matter. MARTIN alleged that he was criticized by WALD, Quality Engineering Supervisor, for going too far during the review (Exhibit 4, p. 1).

Investigator's Note: In the KARALEWITZ investigation (3-92-030R), allegedly the DECo security staff misrepresented information to the NRC; a DECo security investigation was deliberately insufficient; and a witness lied to a DECo QA auditor. Two of the three allegations were not substantiated. The third allegation, however, was substantiated.

13. MARTIN alleged that in the audit report, DECo No. 90-216 (Updated Final Safety Analysis Report [UFSAR]), he identified certain deficiencies. In February 1991, MILLER, QA Director, allegedly accused MARTIN of embarrassing him (MILLER) because of the audit report. Later, MILLER allegedly told MARTIN, privately, that he (MARTIN) would never be promoted (Exhibit 4, p. 2).

14. MARTIN stated that during the November 1992 outage, he wrote an audit report that was critical of quality control (QC), in that there was a failure to verify proper strut placements (Yellow Lining QC Verification). MARTIN was allegedly criticized for not conducting the audit properly (Exhibit 4, p. 2).
15. On July 26, 1993, MARTIN was terminated from employment with DECo (Exhibit 2, p. 156).
16. On August 11, 1993, MARTIN, through his attorney, WASHINGTON, filed a suit against DECo in the Circuit Court of Wayne County, State of Michigan (Exhibit 5).
17. In the suit, three specific situations were identified that MARTIN claimed led to DECo's discriminating against him. Two of the issues, the company's fire protection program and the 1991 alleged falsification of qualification and certification of personnel, had been previously reported by MARTIN in the April 28, 1993, letter (see Evidence numbers 4, 8.4). The third issue, occurring in 1989, was regarding a practice reported by MARTIN to the NRC in which the company closed out reports of deviation requiring corrective action before the deviation had been corrected (see Evidence number 8.2) (Exhibit 5, pp. 4-5).
18. On October 14, 1994, DECo offered MARTIN an unconditional offer of reemployment (Exhibit 6).
19. MARTIN was given his choice between Emergency Response Planner-Radiological Emergency Response Program or Engineer-Licensing (Exhibit 6, p. 1).
20. The letter disclosed, "This offer is unconditional and does not require Mr. Martin to abandon or compromise his litigation against Detroit Edison" (Exhibit 6, p. 2).
21. On October 15, 1993, MARTIN, through his attorney, filed a complaint against DECo with the U.S. Department of Labor (DOL). MARTIN alleged that since 1988 he had increased difficulties with the new management at Fermi. He alleged that because of these actions he was forced to report directly to the NRC violations of federally mandated nuclear safety standards (Exhibit 7, pp. 1-2).
22. MARTIN specified three violations to the DOL: DECo's practice of closing out DERs without proper corrective action (see Evidence number 17); DECo's attempts to prevent MARTIN from identifying problems in the company's fire protection program (see Evidence numbers 8 and 17); and DECo personnel who, while performing various test on emergency and other equipment, had falsified their qualifications and certifications required to perform those particular tests (see Evidence numbers 4, 8, and 17) (Exhibit 7, p. 2).
23. MARTIN alleged that as a result of his reports, DECo's management expressed extreme verbal displeasure with him; downgraded his evaluation; denied him a promotion; and, on one occasion, threw an object

at him during the course of a discussion concerning a nuclear quality assurance audit (see Evidence number 5) (Exhibit 7, p. 2).

24. MARTIN's complaint disclosed, "As this letter was being drafted, however, counsel received a letter from Mr. Stanley SLAZINSKI of Detroit Edison offering Martin what was described as an unconditional offer of reinstatement to his choice of two other positions" (Exhibit 7, p. 3).
25. The complaint disclosed, "We believe that this offer provides additional proof that the allegations Detroit Edison made about Martin's work performance were false and were offered only as a cover up for its discrimination against Martin. As Martin remains out of quality control, however, we do not believe these offers, even if accepted, would remedy the losses he has suffered or the chill which has been cast over all quality assurance employees who attempt to report violations of nuclear safety standards" (Exhibit 7, p. 3).
26. In November 1993, MARTIN accepted the licensing position but stated, "I haven't did (sic) anything since I've been there" (Exhibit 2, pp. 160-161).
27. On January 24, 1994, the DOL investigation concluded, "It is the opinion of this investigator, that the complaint filed by Jimmy Martin cannot be substantiated. No connection can be made between Martin's reports to the NRC and his low candidate rating which led to his eventual deselection and termination of his employment. It is recommended that the complainant be notified that the allegations cannot be substantiated and that this case be closed" (Exhibit 8, p. 6).
28. On March 7, 1994, MARTIN was again interviewed by an investigator of the NRC. MARTIN acknowledged that he was in the QA auditing group when he started with DECo (Exhibit 2, p. 3).
29. MARTIN identified four groups within the QA organization: the auditor group, the inspection group, the procurement group, and the engineering group (Exhibit 2, pp. 4-5).
30. MARTIN acknowledged that the auditing group audited the other three quality assurance groups, as well as the chemistry group, the radiation group, the engineering group, the fire protection group, and the corrective action program (Exhibit 2, p. 7).
31. MARTIN explained that the difference between a DER and an observation was, "Well, a DER is required -- it's a deficiency report. It's required to be -- you have to correct it. You have to do some actions, and you have to send it through the mill, you might say, through different organizations who will review it to see if the corrective actions are completed . . . It's visible, and it has to be tracked and worked. An observation may or may not be. An observation, as they were written at that time, may or may not be" (Exhibit 2, pp. 12-13).
32. When asked if DERs were reviewed by NRC inspectors, MARTIN replied, "Yes." When asked if observations were reviewed by NRC inspectors,

MARTIN replied, "They could be but not necessarily. DERs I know do go to the NRC resident inspector . . . Observations do not" (Exhibit 2, p. 13).

33. WALD, when asked the difference between the use of an observation and a DER, explained, "It would depend on the nature of it and the severity of it. Many of the things we observed, in fact, most of what we observed would be in the form of observations, because they weren't really things that were safety significance in the sense that they were going to threaten the health and safety of the public or anything" (Exhibit 9, p. 6).
34. WALD stated, "Well, there are cases where supervisors and directors have, say, had a disagreement as to whether a DER was valid or not. But there was never any cases where that DER was not written because the receiving director or supervisor objected to it" (Exhibit 9, p. 8).
35. GOODMAN stated, "If we find a problem that is a condition adverse to quality then we would write a DER. It is a quality assurance finding if we write it" (Exhibit 10, p. 5).
36. WALD explained, "I mean, there might be negotiations with an organization as to how an observation would actually be written, or how -- whether or not it would be a DER. But, that's part of the auditing process, you know, determining what the problem is and what's needed to correct the problem. Q So, it's not just black and white?
A No" (Exhibit 9, p. 23).
37. WALD stated, "Your goal as an auditor is not necessarily to write DER's or observations, but to correct the problem and it can be corrected through other means other than just DER's or observations" (Exhibit 9, p. 24).
38. MARTIN commented, regarding a particular condition, "No, I didn't write a DER. I'm sorry. I wrote an observation . . . The reason I didn't write a DER on this was because they corrected the problem . . . Before this thing was finished they corrected the problem" (Exhibit 9, p. 138).

Investigator's Note: During the March 7, 1994, interview, MARTIN was questioned regarding the eight issues that he, through various correspondence, had identified to the NRC as the catalyst that eventually led to his termination.

39. MARTIN acknowledged that while a lead auditor, and while conducting an audit on the corrective action program in 1988, he discovered that the director of QA, STAFFORD, was closing out DERs administratively without verification that all of the corrective actions were completed (Exhibit 2, p. 11).
40. MARTIN stated that DELK, the group leader, would not let him (MARTIN) issue a DER; that DELK told him (MARTIN) to write an observation, which MARTIN did write (Exhibit 2, p. 12).

41. MARTIN stated that six months later, while doing a second follow-up audit, he noticed that no action had been taken to correct the situation (Exhibit 2, p. 13).
42. MARTIN stated that when he completed the audit, he assessed the corrective action program as marginal, less than satisfactory. MARTIN stated that he also wrote a DER on the administrative closures (Exhibit 2, p. 19).
43. MARTIN alleged that the reason there were no protests in issuing a DER in the second audit was that the NRC was at Fermi asking questions (Exhibit 2, p. 23).
44. MARTIN acknowledged that the action required by his DER was that the improper closeout practice be stopped, the DERs that were closed be reopened, and a signature obtained stating that the action was completed (Exhibit 2, p. 25).
45. MARTIN stated, "Now, they did not reopen every one of them, but they had to go back and review them and sign off that, yeah, this is okay. Some verification -- do we need to reopen it? And it turned out -- I'm sure what the number was, but there was a large number they had to reopen, go back and do the work" (Exhibit 2, p. 27).
46. MARTIN stated, "First I was called in by Stafford . . . He didn't like the assessment, and he let me know that . . . Later Stafford called the audit group together . . . and he looked straight at me, and he says, 'An administrative closure is not a problem. However, we're going to get a violation on this, and it's not a problem.' He kept looking at me like this when he was doing this. Well, I knew he was very unhappy with me there" (Exhibit 2, p. 28).
47. MARTIN acknowledged that he was never the lead auditor on that audit again. However, he was the lead auditor on other audits (Exhibit 2, pp. 29, 31).
48. MARTIN, when asked whether, "The audit itself, though, was not just made up of the DER that you wrote," answered, "Oh, no, no, no. There was other things" (Exhibit 2, p. 34).
49. MARTIN, when asked if his evaluation was downgraded, replied, "Yes. Well, I mean Fred -- no" (Exhibit 2, p. 35).
50. MARTIN acknowledged that on his evaluations prior to 1989, he had received satisfactory plus or very good, and for this particular evaluation (1989), he received a satisfactory plus (Exhibit 2, pp. 36-37).

Investigator's Note: (See Evidence number 23.) In MARTIN's complaint filed with the DOL, he alleged that DECo's management downgraded his evaluation. MARTIN presented no testimony nor evidence to support this allegation.

51. In the second issue, MARTIN acknowledged that in 1989, while assigned as the lead auditor, he was conducting a biannual audit of the inspection group (Exhibit 2, pp. 38, 40).
52. During the audit, MARTIN determined that BAILEY, group supervisor, had, ". . . given level three certifications to -- probably given out probably about eight certifications without the required examinations or to people who weren't really qualified to have those certifications . . . But Bailey had given the certifications without the qualifications required by ASMI in 45.26 (sic)" (Exhibit 2, p. 41).
53. MARTIN stated, "Our program required that these individuals have an exam, for one thing, plus having the time, five years' experience, whatever it would take, meeting all of the qualifications" (Exhibit 2, p. 42).
54. MARTIN stated that he asked for a meeting with STAFFORD. MARTIN stated that BAILEY came to the meeting and said, "I gave them the exams. The exams are there. They had exams" (Exhibit 2, p. 42).
55. MARTIN stated that he told BAILEY and STAFFORD that the people did not take the exam, that he (MARTIN) had talked to the people, and that BAILEY and STAFFORD just winked at each other (Exhibit 2, p. 42).
56. MARTIN acknowledged that the group lead auditor, GRANT, directed him (MARTIN) to write a DER on the situation. MARTIN, when asked what the results of the DER was, responded, "They pulled back the certifications. They made statements that they had never performed any activities under those certifications" (Exhibit 2, pp. 38, 43).
57. MARTIN responded, "No," when asked if STAFFORD at any time directed him not to write a DER (Exhibit 2, p. 44).
58. MARTIN was asked, "My observation is that right now it seems like a lot of the problems in the QA department had to do with the QA inspectors. A Yes. Q You weren't finding this problem over in the procurement QAs or the engineering group. A No. Q Why do you think personally that the QA inspectors were having so much problems when everything -- your department and the other two seemed to be functioning? A Well, we haven't got into that step yet, but they put Bailey in charge, and they put Bradish in charge. Neither one of those guys were really adequate or really qualified to be a supervisor over that group, and they were just going amuck really" (Exhibit 2, pp. 46-47).
59. MARTIN stated, "Delk didn't like the audit. Delk didn't like the audit, and I can't say he didn't like the DER. I know he didn't like the audit . . . I don't know if Delk didn't like it. I can't say he didn't like the DER. I know he did not like the audit mainly because there was some sort of rivalry between him and Grant" (Exhibit 2, pp. 45, 50).
60. When asked if there were any repercussions that he (MARTIN) personally suffered because he wrote the DER, MARTIN replied, "Yes, but that didn't surface until '91 because this audit is done every two years" (see Evidence number 145) (Exhibit 2, p. 45).

61. The third issue, which had to do with the audit of the evaluation and corrective action program, occurred in 1990 (Exhibit 2, p. 51).
62. MARTIN acknowledged that DELK was the audit group lead, FITZSIMMONS was the lead on the audit, he (MARTIN) was assigned to the audit, and the program being audited was BRADISH's group, the quality assurance inspection group (Exhibit 2, pp. 52-53).
63. MARTIN stated that during the audit, a welding inspector, CASWELL, informed him that a tack weld was not inspected (Exhibit 2, p. 54).
64. CASWELL allegedly told MARTIN, "For God sakes, don't tell Bradish I told you. I tried to get them to issue a DER, and they won't do it" (Exhibit 2, p. 54).
65. MARTIN stated that he met with BRADISH, who was aware of the situation. MARTIN stated he told BRADISH that he (BRADISH) should write the DER (Exhibit 2, p. 55).
66. MARTIN stated, "He became very upset with me. And we had a table about like this one here. He got up and he walks around. He picked up a large paper clip, and he's fooling with it as he walks around. And he tells me -- he says he's not going to write the damn DER, and if I write it, 'You'll get it shoved up your ass'" (Exhibit 2, pp. 55-56).
67. MARTIN stated, "He told me that -- yeah. He told me that they had talked to the welder, and the welder recalls the inspector being there. I said that's not good enough. It's a deficiency. Even if it's not -- even if the deficiency is that it's not documented properly, it's still a deficiency. The DER is required. It's an ASMI code point that has to be inspected. And besides . . . you can't just take a welder's word . . . for it anyway" (Exhibit 2, p. 56).
68. MARTIN stated, ". . . he [BRADISH] threw a paper clip across -- hit the wall behind me" (Exhibit 2, p. 58).
69. MARTIN stated that he told BRADISH, "Now I got a (sic) write a DER that you won't write a DER. That's what my DER is going to be. Okay. My DER is going to be that you won't write a DER for a deficiency that you know exists" (Exhibit 2, p. 58).
70. MARTIN then wrote DER 90-0310 (Exhibit 2, p. 58; Exhibit 11).
71. BRADISH stated, regarding this incident, "Mr. Martin was performing an audit on the inspectors' qualifications of which I was in charge of. There was a work package that dealt with a valve, and what they had done was they cut a leak off line on the valve and welded in a three-quarter inch plug. It was part of the pressure boundary and required a fit up, a tack weld to make sure that the weld was there, and then it required another visual inspection, if you will, as the welder came half way out and then a full penetration weld at the end of the weld. So it required three inspection hold points.
"If I can for just a minute upon a piece of paper, I would like to show you another thing that may be helpful, not only for me to --"
(Exhibit 12, p. 17).

72. The sworn statement continued as follows, "MR. ANDERSON: We will call this Exhibit 8, is that okay?" (Exhibit 12, p. 17; Exhibit 14).
73. BRADISH continued, "What we have here is, this is termed a WPCS, this is a Weld Process Control Sheet. I think that is the term they use, and it has boxes on it. The different requirements, okay, and this is Requirement A, B, C, D, and so forth, okay. This is what the weld engineer puts on here. He will put a description of what he wants, he wants a tack weld, a heliarch, whatever type of weld he wants.
"Then, it would be reviewed and he will put a star over here for a QA hold, and then he will say visual, okay? Then he might say, NDE test to PT or something. This is typically the way a sheet will run. What he had done, when he did this particular one, he skipped a line here, and he put the visual down here. So this was omitted, if you will, this was omitted from the weld sheet that the inspector was using on the day of the job" (Exhibit 12, pp. 17-18).
74. BRADISH further stated: "Now the inspector says, I have done this job multiple times in the past and I have always done a fit up on this type of job, and he questions in the field, he says, I had better do a visual anyway even though I don't have to sign for it because it is not asterisked up here for a QA hold point, but I will do it anyway" (Exhibit 12, p. 18).
75. BRADISH continued, "So he did the fit up weld, and he did the half, and then he did the full out, and then he did the NDE test on it down here. He did all the requires. He did not sign that he did the fit up . . . It was a column error made by the weld engineer, and the weld engineer acknowledged it. When we discovered it long before Mr. Martin started his audit process, and it is in the work package this way also, we brought it to the attention, self-identified it, and brought it to the attention of the weld engineer. The weld engineer took a look at the package and the description and discussed the whole (sic) point, and the process that the weld inspector used when he was on this job I found and agreed that the weld process was acceptable and signed for it on the weld package" (Exhibit 12, pp. 18-19).
76. BRADISH further stated, "When Mr. Martin was in the process of doing his audit and he went by the -- at the time the guy was the American Nuclear Insurer's representative on-site, and looked at this package, and they said, 'Well, they obviously missed the hold point right here and they didn't sign for it so they missed it.' So he brought that to my attention at that time.
"I looked at it and I saw the notations on the sheet that the issue was resolved on the fit up, so I did not classify it as a missed QA hold point but a personal error made by the weld engineer, and I brought that to his attention, and that subsequently to this work being performed and completed that the weld engineer had accepted, and I did not see the need, since it had already previously been addressed and corrective actions been implemented, to write a DER by our procedures" (Exhibit 12, pp. 19-20).
77. BRADISH continued, "Of course, discussions came up about it, but I would not do anything different today at Mr. Martin's request to write

a DER on this situation. First of all, it is each employee's own responsibility that if they find a deficiency to initiate the DER. It is not the person -- in other words, if I identify a deficiency and I go to Mr. X over here and say, 'You'll write the DER,' it is my responsibility by the procedure and by FERMI management to initiate the DER because I have the concern. I am the best person to address that concern and describe it in written format to be reviewed" (Exhibit 12, p. 20).

78. BRADISH continued, "Here is the thing, when the plant was not in start -- this was a requirement for the plant to get started back up, okay. When we identified that that whole (sic) point was missing a signature, we contacted the weld engineer, also we contacted the inspector that was on that job that signed the other six requirements on that work package. We resolved that to get the plant started back up, nine months before Mr. Martin ever saw this package. It would have been easy to fax or mail this WPCS to the weld inspector that did it, have him initial it here, send it back and put it in the work package . . . Correct it and dated (sic) it here, subsequently, date it. It wouldn't be the same date as the rest of them, but it would have been dated and initialed by him that he did it. But we had a phone conversation and documented the phone conversation with him in front of a witness, and everything else, on a work package that he did, indeed, do the visual inspection" (Exhibit 12, pp. 23-24).
79. BRADISH further stated, "So we intentionally left it blank so that there would be no coerciveness or anything else for a cover up in answering questions later . . . I think what you are going to find, it is going to go back to the technical issue of the whole (sic) point. This issue also came up with the NRC and that was the resolution of it, it was this -- not depicting the whole (sic) point. See, if you look at it, he wanted to write the DER on a missed QA hold point. We subsequently determined it was not a missed QA hold point, that the inspector did the hold point. He did not sign for it because the asterisk was not in that block for him to sign it, but he still did the visual inspection and the requirements as a weld inspector to verify that the fit-up weld was done correctly" (Exhibit 12, pp. 24-26).
80. BRADISH concluded this portion of his testimony by stating, "Here is the other thing is, if this work package was not done that way, we would have gone in and cut that weld out and redone it, and that was all addressed upfront, should we go do that . . . and it was decided by the engineering group, the welding engineer, the maintenance superintendent, the QA organization, and also with the weld inspector that he did that, and the welder acknowledged that he did the fit-up weld inspection" (Exhibit 12, p. 26).
81. When asked if he argued with MARTIN and threw a paper clip at him, BRADISH replied, "I did not have an argument with him and I would not -- what happened was, I flipped it like that. He was sitting in that general direction. I would not term that as (sic) throwing at him. I got disgusted with him. The conversation voice levels probably went up a couple of octaves" (Exhibit 12, pp. 26-27).
82. MARTIN, when asked why CASWELL, an inspector within the quality assurance inspection program, did not write the DER, since he could have

written it anonymously, replied, "Well, they -- he knew I was doing the audit on this. He knew that if he told me about it I would follow up on it. Yeah, he could have done it -- and you're right about that -- and probably should have" (Exhibit 2, p. 57).

83. MARTIN relied, when asked, "Q Did anyone write a DER on the missed hold point? A No" (Exhibit 2, p. 58).
84. MARTIN acknowledged that the DER (310) had nothing to do with the missed hold (Exhibit 2, p. 71).

Investigator's Note: (See Evidence number 5) In the April 28, 1993 letter written by MARTIN, he wrote, "I issued a DER for a missed QA inspection of tack welds . . . I tried to discuss this condition with Mr. Bradish and have him issue the DER so that I would not have to issue another DER for his failure to do so." MARTIN's testimony was contrary to this statement. No further evidence or testimony was given to support this allegation.

85. MARTIN stated that he talked to STAFFORD regarding the BRADISH confrontation but added, "I really wasn't worried, you know, that something would happen to me, but I felt like I needed to make sure that they knew about this situation" (Exhibit 2, p. 69).
86. When asked if a personality conflict was developing (with BRADISH), since it seemed that every time MARTIN went to BRADISH' group he (MARTIN) found serious problems with BRADISH's operation, MARTIN replied, "Yeah. They weren't like -- it was like, you know, shooting fish in a barrel. He couldn't miss them" (Exhibit 2, p. 64).
87. When asked if other auditors were also finding problems, MARTIN replied, "No. I'm the only one that did the audits, it seemed like, in his [BRADISH] area" (Exhibit 2, p. 65).
88. The fourth issue, which had to do with the audit of the fire protection program, also occurred in 1990 (Exhibit 2, pp. 72-73).
89. MARTIN stated that he was the lead auditor, and that there were 12 DERs written during that audit (Exhibit 2, p. 74).
90. One of the problems MARTIN identified was that the UFSAR allegedly required that the fire protection specialist report to operations. However, MARTIN acknowledged that when STAFFORD had come in (to QA), he had taken over plant safety, which included the fire protection specialist's job. So, now the fire protection specialist's position reported to QA and not to operations (Exhibit 2, pp. 72-73).
91. MARTIN stated, "The fire protection specialist could not get resolution to a lot of the combustibles not being store properly in the plant because he didn't have access up through the operations where he should have been in. He was over in the -- reporting through QA, and QA wasn't taking care of it" (Exhibit 2, p. 75).

92. MARTIN stated, "We either got to change the UFSAR or we've got to change the program, you know, or put him back where he's supposed to be. They wouldn't do anything about it" (Exhibit 2, p. 73).
93. MARTIN acknowledged that he discussed this issue with MILLER, the new director of QA, who allegedly told MARTIN not to write that observation in the audit report (Exhibit 2, p. 75).
94. MARTIN stated, "And so he [MILLER] told me not to write it. I did write it, but he reviewed the audit report before it got issued. And when I gave him the audit report and he reviewed it, he says to me -- he says, 'I thought you wasn't going to put this in the report.' I said, 'Well, it's an issue. You can take it out, but this is the way I see it.' He left it in the report. And I forget the words, if we used unsatisfactory or marginal, but the program was assessed as marginal or unsatisfactory, whichever term we used" (Exhibit 2, p. 78).

Investigator's Note: (See Evidence number 22.) MARTIN alleged that DECo attempted to prevent MARTIN from identifying problems in the fire protection program. The above testimony does not support this allegation, nor did MARTIN present any additional testimony or evidence to support this position.

95. MARTIN answered, "Yes," when asked if he was aware of any adverse action taken against him for this particular finding (Exhibit 2, p. 81).
96. MARTIN related that the audit was in September 1990, and in February 1991 following a round-table discussion for the QA organization run by MILLER and STAFFORD, MILLER allegedly told MARTIN, "Fred Abramson has put you in for a promotion, but you're not going to get it because you embarrassed me with that fire protection audit" (Exhibit 2, pp. 81-83).
97. MARTIN stated, "And then he says, 'There's still a chance you might get that promotion'" (Exhibit 2, p. 84).

Investigator's Note: MARTIN never finished this thought but, instead, commented about unrelated correspondence he had with MILLER.

98. MARTIN asserted that he had not been aware that ABRAMSON had put him in for a promotion (Exhibit 2, p. 84).
99. MARTIN stated that he talked to ABRAMSON regarding the promotion, and ABRAMSON allegedly said that in a discussion with MILLER, MARTIN's promotion was turned down because MARTIN did not have a four-year degree (Exhibit 2, p. 85).
100. When asked if he went to STAFFORD regarding being denied a promotion, MARTIN stated, "I don't think I could have gone to Stafford because I found out about Stafford a long time ago like when him and . . . Bailey sitting there winking at each other" (Exhibit 2, p. 91).
101. When asked if he discussed this with anyone, MARTIN replied, "No" (Exhibit 2, p. 92).

102. When asked if he was thinking of filing any kind of a complaint or action with the NRC, MARTIN replied, "No. At that time -- okay. I knew that I still might get it [the promotion] somehow, but I didn't know that -- I knew that Fred Abramson had talked to Osser. I knew that Fred Abramson was still trying to get it" (Exhibit 2, p. 96).
103. MARTIN stated that by July 1991 he knew he was not going to get the promotion. When asked if he notified the NRC, he replied, "No . . . You know, the heck with it" (Exhibit 2, p. 97).
104. The DOL investigation report asserted, "As for the conflict of interest charge, having the same manager in charge of both the Quality Assurance and the Safety and Fire departments, the NRC found no substance to the charge . . . These and other such issues alleged by Martin were discussed. Burgess informed this investigator that the allegations were nonviolations or of minor importance. Burgess also stated that the employer had followed the proper NRC reporting procedures and that any corrections made by the employer were in compliance with those same procedures" (Exhibit 8, p. 4).
105. The DOL report continued, "As for the nonpromotion of Martin, the employer claims that Martin's immediate supervisor had recommended that four individuals be promoted. However, because of cost overrun factors between degreed and non-degreed individuals, the request was never acted on for any of those employees" (Exhibit 8, p. 4).
106. MARTIN stated that following the February 1991 round-table discussion, he wrote a letter to MILLER about his (MILLER) perception of QA (Exhibit 2, p. 82).
107. MARTIN, in his letter to MILLER, wrote, "Some of the statements I heard were: 'We are going to be more cost effective and beneficial by working with less people, only doing audits that are absolutely required' . . . However, your approach to the roundtable discussion gave me the impression that you feel QA is little more than overhead . . . I did not get the impression that you feel QA audits are very beneficial" (Exhibit 14, p. 1).
108. MILLER, in his reply to MARTIN, wrote, "In your memo, you attribute someone with saying that we are '. . . only doing audits that are absolutely required.' This was not said during that meeting! . . . if I wanted to only do audits that are required, I would not support our three 1991 unscheduled (and not required) budgeted audits" (Exhibit 15, p. 1).
109. MILLER's letter continued, "In your memo, you state that I feel that QA is little more than overhead. As we discussed at the MAC, we have many efforts underway to maximize return on NQA assignments. These are hardly the actions taken by someone who might feel that their department is little more than overhead. Similarly, they aren't actions taken by someone who feels audits aren't beneficial. They are actions that I am taking to maximize the benefit achievable from audits" (Exhibit 15, p. 2).

110. MILLER then listed 10 efforts he was taking to maximize the benefit achieved from audits (Exhibit 15, pp. 2-3).
111. MARTIN, in his response to MILLER's letter, wrote, ". . . it is my understanding that you do not consider my concerns to be valid . . . I did not hear any recognition for the benefits of auditing, or for the benefits of early identification of deficiencies before they became major problems . . . I do not feel that auditors have been properly recognized for their efforts" (Exhibit 16, p. 1).
112. Regarding MILLER's reply, MARTIN stated, ". . . he wrote about a four-page letter back to me saying a lot of things that were not relevant to what I was talking about" (Exhibit 2, p. 84).
113. The fifth issue that MARTIN discussed, which occurred in 1991, was regarding the inspection of the measuring and test equipment controls (Exhibit 2, p. 98).
114. MARTIN stated, ". . . in this audit I was taking the -- I took the tech group to review their controls . . . I found out that they were not keeping records. They were not recording where measuring and test equipment was being used. They were storing it improperly. They weren't keeping any history folders. Just about everything. The program was just shot" (Exhibit 2, p. 99).
115. MARTIN acknowledged that the individuals using the equipment were not trained nor certified (Exhibit 2, pp. 99-100).
116. MARTIN asserted that he wrote a DER regarding the qualification issue and submitted it to MILLER. MARTIN stated that MILLER, who did not object to the DER, did not want the word, "falsification" used in the DER. MARTIN stated, "Well, I guess it really hadn't been proven that it was falsification yet, you know. That's a strong word to use" (Exhibit 2, p. 102).
117. MARTIN stated that he wrote a second DER on the failure to control the equipment properly (Exhibit 2, p. 107).
118. MARTIN acknowledged that during this time, BRADISH was moved out of inspection and into the supervisor position of the audit group, and he became MARTIN's supervisor (Exhibit 2, p. 107).
119. MARTIN stated that the first thing BRADISH did was jump on him for not closing out these two issues (DERs). MARTIN stated, "I'd gotten responses back on both of them several times and rejected the responses because they weren't adequate" (Exhibit 2, p. 107).
120. MARTIN acknowledged that both issues (DERs) were closed out properly, and that the only repercussions taken by BRADISH were, ". . . just cussing me out, you know. That's all. I mean --" (Exhibit 2, pp. 111, 117).
121. MARTIN stated, ". . . Bradish doesn't understand quality or what it's all about. I mean that's a fact. He doesn't understand that . . . He

<u>Exhibit No.</u>	<u>Description</u>
23	Organizational Chart, dated January 18, 1993.
24	Organizational Chart of NQA, undated.
25	Position Summary, QA Specialist, Fermi 2 Power Plant.
26	Position Summary, QA Specialist-Surveillance.
27	Letter from WALD to "Whom It May Concern," dated May 10, 1993.