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August 3, 1995

MEMORANDUM FOR FILE

SUBJECT: ANALYSIS AND SUMMARY OF EVIDENCE CORROBORATING THE TESTIMONY OF ELLEN TAYLOR (CASE NO. 2-94-003)

On July 20, 1995, Ellen TAYLOR, former personnel manager for The Atlantic Group (TAG), provided testimony during a formal interview by the Nuclear Regulatory Commission Office of Investigations. TAYLOR testified that between December 1991 and the conclusion of TAG's involvement in Department of Labor (DOL) Case 92-ERA-30 in early October 1992, TAG had only two openings for Instrumentation and Control technicians (I&C techs). Approximately 18 I&C techs were required at the Fermi nuclear plant and 5 or 6 I&C techs were required at the Palo Verde plant to work at outages commencing in September 1992. Recruitment by TAG to fill these positions began in late July and early August 1992 (see transcript of TAYLOR interview, pages 37 - 40).

On July 27, 1995, Senior Investigator James D. Dockery, received extensive documentation from TAG Legal Counsel, William W. NEXSEN. According to the accompanying letter by NEXSEN (attached), the documents were provided to support TAYLOR's contention that she knew by July 1992, that Thomas J. SAPORITO would be unavailable for I&C technician work beginning in September 1992 at either Fermi or Palo Verde.

Two documents (attached), each of which are part of the official record of DOL Administrative Law Docket No. 92-ERA-30, corroborate the contention that TAG legal counsel and, therefore TAYLOR, were aware as of the third week of July 1992 of SAPORITO's unavailability for employment placement by TAG at any outage commencing in September 1992.

In his "Motion To Establish Hearing Date & Time" dated July 17, 1992, SAPORITO himself requests that a hearing in 92-ERA-30 before a DOL Administrative Law Judge (ALJ) "...be set for the week of September 1, 1992 (emphasis added)."

In his "Memorandum Of Conference Call And Pre-Hearing Order #5" dated July 21, 1992, DOL ALJ Michael P. LESNIAK records the results of a telephone conference call that date between SAPORITO, the ALJ, and legal counsel to the parties involved in the litigation of 92-ERA-30. The ALJ documents the agreement that, "Complainant intends to travel to Phoenix, Arizona, on or about early September 1992, to conduct interviews and/or depositions of Arizona Public Service [APS] Company employees. All interviews and/or depositions will take place between September 8 to September 18, 1992." Furthermore, ALJ LESNIAK noted that, "(t)he liability portion of the trial (of 92-ERA-30) will commence September 28, 1992, and continuing at a time and place to be announced in Phoenix, Arizona (all emphases added)."

Information in this record was deleted  
in accordance with the Freedom of Information  
Act, exemptions 7C  
FOIA- 96-19

EXHIBIT 21 B/B

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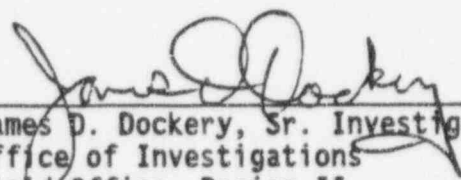
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Based on these two documents, it is reasonable that SAPORITO was not selected or proposed for employment by TAG during late July/early August for employment as an I&C tech at outages scheduled for September 1992. At the time I&C tech applications and resumes were being reviewed and proposed to the two utilities, TAG had good reason to assume that SAPORITO intended to pursue the litigation he had prepared extensively for against TAG and APS and was therefore not available for employment at the same time. It would have been counter-productive from a business standpoint for TAG to propose or select SAPORITO for employment which the company knew he could not fulfill. According to both TAYLOR and TAG legal counsel, SAPORITO never made any motion or informal proposal to delay the discovery, deposition, or hearing process in 92-ERA-30 to allow him to seek employment as an I&C tech during September 1992.

The significance of TAYLOR's testimony and the corroborating documentation is that between December 1991, when SAPORITO was rejected by APS as an I&C tech for the Palo Verde unit one outage, and October 1992 when TAYLOR made the managerial decision that SAPORITO was no longer eligible for employment by TAG, there were no employment opportunities with TAG for which SAPORITO was available. Therefore, TAG could not have discriminated against SAPORITO with respect to employment opportunities during that time as alleged by SAPORITO.

  
James D. Dockery, Sr. Investigator  
Office of Investigations  
Field Office, Region II

Attachments: 3, as stated