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UNITED STATES
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
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In the Matter of)	Docket No.	030-13435
)	License No.	53-17854-01
FINLAY TESTING LABORATORIES,)	EA 88-69	
INC., Testing and Inspection)		
Services; 99-940 Iwaena)		
Street, Aiea, Hawaii 96701)		
)		

ANSWER TO ORDER CONTINUING SUSPENSION
OF LICENSE (EFFECTIVE IMMEDIATELY)
AND ORDER TO SHOW CAUSE WHY LICENSE SHOULD
NOT BE REVOKED; DEMAND FOR HEARING AFTER DISCOVERY

FINLAY TESTING LABORATORIES, INC. ("Licensee"), by its counsel, TORKILDSON, KATZ, JOSSEM, FONSECA & MOORE, for its responsive pleading to the Order Continuing Suspension of License (Effective Immediately) and Order to Show Cause Why License Should Not Be Revoked, issued April 11, 1988, states:

I. INTRODUCTION.

On September 21, 1987, NRC Staff issued an Order Suspending License (Effective Immediately), upon which Finlay demanded a hearing pursuant to 10 CFR §2.201(c). The Nuclear Regulatory Commission refused to authorize a prompt, full and fair hearing on the September 21 order, despite repeated demands by Finlay. In doing so, the Commission supported Staff's refusal to provide reams of material discovery requested by Finlay in early December, 1987.

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In an effort to skirt the constitutional violations in actions already taken against Finlay, NRC Staff has issued the April 11, 1988 order, and virtually buried Finlay and its counsel with documents relating almost entirely to matters alleged to have occurred or been determined after issuance of the September 21, 1987 Order.

Given the extent and breadth of the Staff's nine month investigation, it is impossible for Finlay adequately to respond to the allegations of the April 11 Order without first obtaining discovery. Moreover, absent months of discovery similar to that undertaken by Staff under the cloak of "investigation," Finlay will be unable to meet the allegations of the April 11 Order.

This responsive pleading is made pursuant to 10 CFR §§2.201 and 2.202. It supercedes the Answer; Request for Relaxation or Rescission of Order; Request for Hearing of October 5, 1987.

II. DEMAND FOR HEARING AFTER DISCOVERY.

Finlay demands a hearing on the April 11, 1988 order, in Honolulu, at an appropriate time after conclusion of discovery by Finlay (and Staff, in the unlikely event that Staff needs additional discovery), where Finlay may show cause why the Order should not be sustained and its license should not be revoked.

III. LEGAL AUTHORITY.

Finlay incorporates by reference its legal positions taken in all pleadings in EA87-186 to date, and in Civil Action No. 88-00276 VAC, United States District Court, District of Hawaii.

IV. ANSWER TO SPECIFIC ALLEGATIONS.

Finlay denies the conclusions drawn from the Staff investigation as such conclusions are set forth in the April 11, 1988 and September 21, 1987 Orders.

Finlay responds to the allegations of the notice of violation appended to and incorporated in the April 11, 1988 Order as follows:

1. Finlay admits the allegations of paragraphs I. A 1, 2, 3, 4, 5, and 6; paragraph I. B, except as to the August 18, 1987 shipment, which is denied because Finlay is without knowledge or information sufficient to form a belief to the truth of the allegations as to that shipment.

2. Finlay admits the allegations of paragraph I. C as to shipments of February 9 and 14, 1987; and, is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph I. C.

3. Finlay admits the allegations of paragraph I. D.

4. Finlay denies the allegations of paragraphs II. A 1, 2 and 3; is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs II. B 1 and 2; paragraph II. C 1; Finlay denies the allegations of paragraphs II. C 2 and 3; Finlay is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs II. D 1 and 2; paragraph II. E; paragraph II. F; paragraph II. G; paragraph II. H; paragraph II. I; paragraph II. J 1; Finlay denies the allegations of paragraph II. J 2 ; Finlay is without knowledge sufficient to form a belief as to the truth of the allegations of paragraph II. K; Finlay admits the allegations of paragraphs II. L, II. M and II. N; Finlay is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph II. O; paragraph II. P 1 and 2; paragraph II. Q 1.

5. Finlay admits the allegations of paragraph II. Q 2 and 3, except (7), which is denied because Finlay is without knowledge or information sufficient to form a belief as to the its truth.

6. Finlay is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph II. Q 4; II. R; II. S; II. T; Finlay denies the allegations of paragraph II. U; Finlay is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs II. V; II. W; and II. X.

7. Finlay denies that any of the alleged violations are of severity levels I and II.

IV. REQUEST TO SUPPLEMENT AFTER DISCOVERY.

Finlay requests leave to supplement this pleading upon completion of discovery, and more specifically set forth the matters of fact and law upon which Finlay will rely at the hearing.

DATED: Honolulu, Hawaii, May 2, 1987.

TORKILDSON, KATZ, JOSSEM,
FONSECA & MOORE, Attorneys at Law



Barry D. Edwards

Attorney for Licensee

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 030-13435
)	License No. 53-17854-01
FINLAY TESTING LABORATORIES,)	EA 88-69
INC., Testing and Inspection)	
Services; 99-940 Iwaena)	
Street, Aiea, Hawaii 96701)	
)	

VERIFICATION

STATE OF HAWAII)	ss:
)	
CITY AND COUNTY OF HONOLULU)	

GORDON W. FINLAY, being duly sworn, deposes and says that he is the President and Chief Executive Officer of Finlay Testing Laboratories, Inc.; that he has read the foregoing ANSWER TO ORDER CONTINUING SUSPENSION OF LICENSE (EFFECTIVE IMMEDIATELY) AND ORDER TO SHOW CAUSE WHY LICENSE SHOULD NOT BE REVOKED; DEMAND FOR HEARING AFTER DISCOVERY; and, that the facts alleged therein are true and correct to the best of his knowledge and belief.



GORDON W. FINLAY

Subscribed and sworn to
before me this ____ day of
_____, 19____.

Notary Public, State of Hawaii

My Commission Expires: _____

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	Docket No. 030-13435
)	License No. 53-17854-01
FINLAY TESTING LABORATORIES,)	EA 88-69
INC., Testing and Inspection)	ASLBP No. 88-559-01-SC
Services; 99-940 Iwaena)	
Street, Aiea, Hawaii 96701)	
)	

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing ANSWER TO ORDER CONTINUING SUSPENSION OF LICENSE (EFFECTIVE IMMEDIATELY) AND ORDER TO SHOW CAUSE WHY LICENSE SHOULD NOT BE REVOKED; DEMAND FOR HEARING AFTER DISCOVERY was duly served on the following persons by first class mail, postage prepaid:

Director, Office of Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(One Copy)

Assistant General Counsel for Enforcement
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
(One Copy)

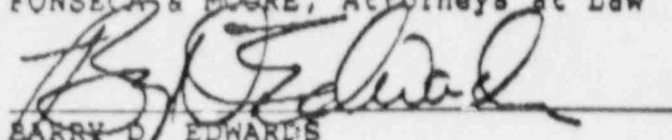
Regional Administrator
Region V
United States Nuclear Regulatory Commission
1450 Maria Lane, Suite 210
Walnut Creek, California 94596
(One copy)

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attn.: Chief, Docketing and Service Section
(Original and two conformed copies)

DATED: Honolulu, Hawaii, May 2, 1988.

TORKILDSON, KATZ, JOSSEM,
FONSECA & MOORE, Attorneys at Law



BARRY D. EDWARDS

Attorney for Finlay Testing
Laboratories, Inc.

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