

BAS 3471
DOCKET NUMBER
PROD. & UTIL. FAC. 50-423-LA-3,
50-390/327/328/259/260/296-CIVP

WINSTON & STRAWN

35 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60601-9703

43 RUE DU RHONE
1204 GENEVA, SWITZERLAND

444 SOUTH FLOWER STREET
LOS ANGELES, CALIFORNIA 90071-2911

1400 L STREET, N.W.
WASHINGTON, D.C. 20005-3502

(202) 371-5700

FACSIMILE (202) 371-5922
FACSIMILE (202) 371-5950

www.winston.com

200 PARK AVENUE
NEW YORK, NEW YORK 10166-4193

21 AVENUE VICTOR HUGO
75116 PARIS, FRANCE

DOCKETED
USNRC

October 9, 2001 (12:49PM)

October 3, 2001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Mr. John Szabo, Esq.
Office of the General Counsel
United States Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, D.C. 20555-0001

Re: L. Michael Rafky

Dear Mr. Szabo:

I formerly served as an attorney in the U.S. Nuclear Regulatory Commission Office of the General Counsel, Materials Litigation and Enforcement, and on Monday October 1, 2001, became an associate attorney at Winston & Strawn.

While working at the NRC, I performed work on behalf of the NRC Staff in a proceeding involving Winston & Strawn's clients, Northeast Nuclear Energy Company ("Northeast Nuclear Energy") and Dominion Nuclear Connecticut, Inc. ("Dominion Nuclear Connecticut"). The proceeding involves a license amendment to increase spent fuel pool storage capacity at the Millstone Nuclear Power Station Unit 3 in Connecticut (Docket No. 50-423-LA-3). Winston & Strawn partner David A. Repka represents Northeast Nuclear Energy and Dominion Nuclear Connecticut in the NRC proceeding.

Also while working at the NRC, I performed work on behalf of the NRC Staff in a proceeding involving Winston & Strawn's client, Tennessee Valley Authority ("TVA"). The proceeding involves an NRC enforcement action issued to TVA for an alleged violation of the NRC's employee protection regulation. Winston & Strawn partner David A. Repka represents TVA in the NRC proceeding.

In addition, while working at the NRC, I performed work on behalf of the NRC Staff in a proceeding involving Winston & Strawn's client, Commonwealth Edison (now known as Exelon Nuclear) ("Exelon"). The proceeding involves an NRC enforcement action issued to Exelon for an alleged violation of the NRC's employee protection regulation. Winston & Strawn partner David A. Repka represents Exelon in the NRC proceeding.

The above are referred to hereafter collectively as the "Screened Matters."

Template = secy-043

SECY-02

WINSTON & STRAWN

Mr. John Szabo, Esq.

October 3, 2001

Page 2

Pursuant to Rule 1.11(d)(2) of the District of Columbia Rules of Professional Conduct, I hereby attest that during the applicable period of disqualification I will not participate in any manner in the Screened Matters or the representation relating thereto, will not discuss the Screened Matters or the representation relating thereto with any other lawyer employed by Winston & Strawn and will not share in any fees for the Screened Matters or the representation relating thereto.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Michael Rafky".

L. Michael Rafky

cc: Monica L. David
Attached Service List

MEMORANDUM #1

To: All Attorneys and Personnel, All Offices

From: Anne E. Thar

Date: September 25, 2001

Re: D.C. Associate L. Michael Rafky, Matters Involving the United States Nuclear Regulatory Commission and Representation of Northeast Nuclear Energy Company, Dominion Nuclear Connecticut, Inc., Tennessee Valley Authority and Commonwealth Edison (Exelon Nuclear)

L. Michael Rafky, formerly an attorney with the United States Nuclear Regulatory Commission ("NRC"), will be joining the Washington, D.C. office of Winston & Strawn as an associate on October 1, 2001.

Winston & Strawn currently represents Northeast Nuclear Energy Company ("Northeast Nuclear Energy") and Dominion Nuclear Connecticut, Inc. ("Dominion Nuclear Connecticut") in connection with a proceeding before the NRC involving a license amendment to increase spent fuel pool storage capacity at the Millstone Nuclear Power Station in Connecticut. David A. Repka is the lead attorney representing Northeast Nuclear Energy and Dominion Nuclear Connecticut in the NRC proceeding.

Winston & Strawn also currently represents the Tennessee Valley Authority ("TVA") in connection with a proceeding before the NRC involving an NRC enforcement action issued to TVA for an alleged violation of the NRC's employee protection regulations. David A. Repka is the lead attorney representing TVA in the NRC proceeding.

Winston & Strawn also currently represents Commonwealth Edison (now known as Exelon Nuclear) ("Exelon") in connection with a proceeding before the NRC involving an NRC enforcement action issued to Exelon for an alleged violation of the NRC's employee protection regulations. David A. Repka is the lead attorney representing Exelon in the NRC proceeding.

While employed by the NRC, Mr. Rafky performed work on behalf of the NRC in the above proceedings.

For purposes of this memorandum only, the above Winston & Strawn clients will be referred to hereafter

collectively as the "W&S Clients," and the above matters will be referred to hereafter collectively as the "Screened Matters."

Winston & Strawn has determined that: (a) our relationship with and representation of the W&S Clients in the Screened Matters will not be adversely affected by Mr. Rafky's joining Winston & Strawn; and (b) we can exercise independent professional judgment on behalf of and represent zealously the interests of the W&S Clients in the Screened Matters despite Mr. Rafky's joining Winston & Strawn.

Nonetheless, in order to protect the independence and confidentiality of our work on behalf of the W&S Clients on the Screened Matters and the prior work of Mr. Rafky and his former employer, the following procedures will be observed until further notice:

- (1) No attorney or other person who has worked, is working or hereafter begins working on behalf of the W&S Clients on the Screened Matters will discuss with or reveal to Mr. Rafky, any confidences, secrets or other material proprietary information relating to such representation.
- (2) Mr. Rafky will not become involved in the representation of the W&S Clients on the Screened Matters.
- (3) Mr. Rafky will not discuss the Screened Matters with (A) any Winston & Strawn personnel, (B) any party, agent, officer or employee of the W&S Clients or (C) any identified witness for or against the W&S Clients on the Screened Matters.
- (4) All files and documents relating to the representation of the W&S Clients on the Screened Matters have been or will be retained by attorneys representing the W&S Clients on the Screened Matters and may not be examined by Mr. Rafky. All others in Winston & Strawn may examine these files and documents only on a need-to-know basis. Mr. Rafky will not bring with him to Winston & Strawn any documents or legal memoranda, including in electronic form, relating to the Screened Matters.

All Attorneys and Personnel, All Offices
September 25, 2001
Page 3

Finally, this memorandum confirms that no exchanges of confidential information have taken place in connection with the preparation of this memorandum or otherwise.

SERVICE LIST

Charles Bechhoefer, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Rulemaking and Adjudications Staff

Mr. John Szabo, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001

Nancy Burton, Esq.
147 Cross Highway
Redding Ridge, CT 06876

Dr. Charles N. Kelber
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Adjudicatory File
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Dennis C. Dambly, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555

Dr. Richard F. Cole
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Ann P. Hodgdon, Esq.
Office of the General Counsel
Mail Stop O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ann Marshall Young
Administrative Judge
U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Washington, DC 20555

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555