

March 7, 2003

EA 03-035

Jason Baker
[HOME ADDRESS DELETED
UNDER 10 CFR 2.790(a)]

SUBJECT: NRC INVESTIGATION NO. 1-2002-040

Dear Mr. Baker:

This refers to an investigation conducted by the NRC Office of Investigations (OI) regarding your unauthorized distribution of devices (Glowrings) containing tritium. The OI investigation was initiated to determine if you knowingly distributed the Glowrings without an NRC license or authorization. OI concluded that you imported and distributed the Glowrings without an NRC license or authorization; however, they did not substantiate that you did so with knowledge that it was a violation of NRC regulations. A synopsis of the investigation report is attached to this letter.

Based on the investigation, the NRC has determined that you imported and possessed approximately 300 to 500 Glowring devices without a license from the NRC or the Commonwealth of Massachusetts. The devices were manufactured by Traser-UK, Ltd., in the United Kingdom and contained approximately 400 millicuries (mCi) of hydrogen-3, also known as tritium. Further, the NRC has determined that you distributed, via the Internet, approximately 250 to 450 of these devices to other unlicensed persons without the required distribution license from the NRC.

During the investigation, members of the NRC explained to you that since the Glowrings contained tritium, a license from the Commonwealth of Massachusetts was required to possess the devices, and a license from the NRC was required to distribute the products. The distribution of these devices is subject to provisions of Title 10 of the Code of Federal Regulations, Part 30 (10 CFR 30). At the conclusion of the investigation on November 12, 2002, you provided a written statement in which you indicated that since you are now aware of the regulations and the seriousness of the matter, you will no longer sell or otherwise distribute Glowrings to anyone. You further wrote that you would hold the remaining Glowring devices (approximately 50) for proper disposal pending instructions from the Commonwealth of Massachusetts. Subsequently, on February 20, 2003, the NRC was notified by the Commonwealth of Massachusetts, that the devices had been taken into the custody of the Massachusetts Radiation Control Program.

NRC regulations permit the issuance of civil sanctions to organizations and individuals who possess or distribute devices such as these without a license. In this case, the NRC has decided not to take enforcement action against you after considering that you are a member of the public and the NRC did not substantiate that you had knowledge regarding the

requirements in the regulations. However, please be aware that similar actions in the future could lead to formal NRC enforcement action against you.

You are not required to respond to this letter. However, should you choose to respond, your response should be sent to the U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 475 Allendale Road, King of Prussia, PA, 19406, and marked "Open by Addressee Only," within 30 days of the date of this letter.

If you have any questions concerning this matter, please contact Mr. John Kinneman at 610-337-5252. Your cooperation with us is appreciated.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and its enclosures, with your home address removed, and any response will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

/RA/ James T. Wiggins Acting For

Hubert J. Miller
Regional Administrator

Attachment: As Stated

cc: Commonwealth of Massachusetts

J. Baker

3

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* No OE concurrence required per telecon with S. Merchant on 2/25/03.

SYNOPSIS OF OI INVESTIGATION 1-2002-040

This investigation was initiated on October 10, 2002, by the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I, to determine if an individual knowingly distributed glowrings containing tritium without an NRC license/authorization.

Based on the evidence developed during this investigation, OI concludes that an individual imported and distributed glowrings containing tritium without an NRC license/authorization, however, OI did not substantiate that this individual knowingly did so.