

From: David Vito *DX*
To: [REDACTED] *TL*
Date: 4/6/05 7:34AM
Subject: Re: Today's Letter from the NRC

Kymn,

I checked the Word Perfect file (the official record copy) and it is correct. There must have been a problem when I block copied the text of the letter to the e-mail message for you. The actual sections of the letter read as indicated below. Sorry for the confusion. Regarding your "factual error" comments, we will review them along with any others you may forward as you see additional information related to the investigations, to determine if additional action is appropriate.

Actual texts in letter:

but one contract was issued in November 2003, and three other contracts were issued in 2004, well after your position was eliminated. As such, the evidence indicates that people were not brought in to perform your function immediately after your position was eliminated.

Response to Concern 2:

The NRC, based on an investigation (Case No. 1-2003-045) conducted by the Region I Field Office of the NRC Office of Investigations (OI), has determined that there was insufficient evidence to prove that you were discriminated against for having engaged in NRC protected activity.

>>> [REDACTED] 04/05/05 04:43PM >>> *TL*

In a message dated 4/5/2005 11:29:32 AM Eastern Standard Time, DJV@nrc.gov writes:

but one willfulness on the part of the [REDACTED] contract was issued in November 2003, and three other contracts were issued in 2004, well after your position was eliminated. As such, the evidence indicates that people were not brought in to perform your function immediately after your position was eliminated. *TL*

Response to Concern 2:

The NRC, based on an investigation (Case No. 1-2003-045) conducted by the Region I Field Office of the NRC Office of Investigations (OI), has determined that there was insufficient evidence to prove that you were discriminated against for having engaged in NRC protected activity.

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions *TL*
FOIA- 2005-194

S-66

Mr. Vito,

Dave,

I have received the letter today from the NRC as we discussed via telephone.

The above paragraphs have typos. Please correct and resend.

In addition, I have found at least 5 factual errors in the letter.

You write:

"...in and around the Fall of 2002, the [REDACTED] terminated a consulting contract that did work similar to work you performed."

1. This is incorrect. The consulting firm that we worked with, Gap International Inc., charged PSEG millions of dollars over several years, including into 2003. They billed PSEG \$6,000 PER DAY for each consultant and the contract did not end in 2002. Gap's services were utilized throughout early 2003, including for a Saturday, March 1, 2003 meeting I participated in with [REDACTED] the [REDACTED] (see below), and at least three Gap Consultants at the Nuclear Training Center. Gap International consultants continued to serve even beyond the announcement of [REDACTED] retirement.

"The investigation also identified that you were offered a job on site as an HR Consultant, which you declined.

2. This is incorrect. I was never offered another job on site, as HR Consultant or any other position. I was offered the opportunity to interview for this significantly lower-level position, which I declined upon the advice of the outplacement executive PSEG asked me to meet with.

"The evidence indicates that people were not brought in to perform your function immediately after your position was eliminated."

3. This is incorrect. [REDACTED] of Organization Change Resources in Princeton, called me on my last day 3/28/03 to inform me he had been hired that day to continue the work I had begun in the Chemistry organization. [REDACTED] to whom Chemistry reported, confirmed this. [REDACTED] work in the Chemistry organization began in April, 2003 after the contract was drawn up. I spoke with Mr. Jeff Teator, the OI investigator, several times in 2004 when I learned [REDACTED] had not been contacted to substantiate this information.

4. This is incorrect. [REDACTED] of Corporate Effects, Inc. and a friend of [REDACTED] was hired in February, 2003. [REDACTED] work is management and leadership mentoring (also called "coaching") and change. His website, as well as his personal conversations with me in February and March of 2003, show great similarities in our work and approach. www.corporateeffects.com (<http://www.corporateeffects.com/>) He confirmed he was hired to do "our kind of work" in the Maintenance organization and expected to be at the site six-nine months for \$150,000. His work ended prematurely, in part, because I complained to [REDACTED] about this, refuting the "budgetary reasons" argument he had given me for my position elimination.

"Investigation testimony corroborates that Corporate HR individuals made the decision to move up your last day of employment."

5. While "investigation testimony" may say the above, three different audio recordings I provided to the NRC make it clear that [REDACTED] made the decision and that [REDACTED] was carrying it out. Frankly, if there is any dispute in testimony, I would expect investigators to rely on the real-time audio recordings, not company officials' after-the-fact statements.

There are additional inconsistencies between what is written in your letter and what PSEG officials communicated during the "independent investigation" interviews conducted in 2003 by Winston & Strawn attorneys. I am not, at this time however, able to specifically point out these inconsistencies due to pending confidentiality rulings on some discovery provided by PSEG under court order in my civil litigation. We will be petitioning the judge for permission to share this information. 7c

As you know, I came to the NRC in September, 2003, with numerous issues related to operational decision-making, nuclear safety, equipment problems, and the work environment as well as my termination. I cooperated fully with the NRC, providing documentation, audio tapes, insights into the organization and evidence of my allegations. The NRC has already issued public letters to the utility confirming much of what I reported and has heightened regulatory oversight. I have done my best to insure the health and safety of all are protected, and to be, as I call it, a Leader Worth Following.

In my discrimination case, I was promised a thorough, independent, and unbiased investigation. Yet, already--in a five page summary letter--I have found substantive factual errors. This assures I will find more errors when I review the thousands of pages of investigative material under the Freedom of Information Act.

If the NRC's ruling was consistent with the facts, I could accept it. However, it is not. As a result, I believe it sends another "chilling" message to those who work in the nuclear industry. Therefore, I will be taking additional steps to insure the record is corrected and the facts are known.

Sincerely,

Nancy Kymn Harvin, Ph.D.
IEEE 2005 Carl Barus Award for Outstanding Service in the Public Interest
Leaders Worth Following
[REDACTED] 7c

CC: A. Randolph Blough; Lisamarie Jarriel