



November 10, 1994

Docket No. 9999  
EA 94-135

U.S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555

Re: Burns International Security Services, Inc.  
Reply to Notice of Violation

Gentlemen:

This letter and the Attachment provides the reply of Burns International Security Services, Inc. ("Burns") to the NRC's enforcement action EA 94-135, dated October 11, 1994. In accordance with 10 C.F.R. § 2.201, Burns respectfully contests the Severity Level II Notice of Violation ("NOV"), for the reasons of fact, law, and policy discussed in the Attachment.

The NOV addresses an incident in November 1992 when Burns discharged an employee from his position as a security guard at a nuclear power plant because the employee provided an investigator with deliberately false information regarding a potential violation of NRC requirements. The NRC, however, found the discharge of the employee to be a Severity Level II violation of the employee protection provisions of 10 C.F.R. § 50.7. We disagree. We believe the legal protection afforded to whistleblowers by Section 50.7 does not extend to misconduct inconsistent with providing safety and security services at nuclear power plants.

More specifically, in October 1992, Burns was investigating an allegation of a serious violation at the nuclear power plant involved. The allegation was that a security guard had been sleeping on duty and that this incident had been concealed by his management. The incident had purportedly occurred in June 1992, but had not been brought forward until some four months later, and only then as support for an employee grievance. Although the circumstances surrounding the issue somewhat mitigated its credibility, the allegation was of a very serious violation. Accordingly, this was a very serious issue to management, and was being investigated as such.

In conjunction with the inquiry, Mr. Scott T. Mayrose, a security guard employed by Burns provided information supposedly

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supporting the allegation and the fellow employee's grievance. Although Mr. Mayrose acknowledged that he had no personal knowledge of the purported incident, he provided references to specifically named witnesses who, he maintained, were present at the time of the alleged violation. The employee further stated that he was advised by these witnesses -- in very specific terms -- that a guard had indeed been sleeping on the job.

However, during a full investigation of this issue, the specifically named witnesses denied personal knowledge of a sleeping guard and denied telling anyone that they had such knowledge. Both individuals stated that they did not witness a sleeping guard violation. We concluded at the time that Mr. Mayrose, in naming these "witnesses," had provided deliberately false information, possibly motivated by the desire to support an acquaintance's grievance. We further concluded at the time that the false report constituted a violation of our corporate policies intended to assure the highest standards of character and integrity on the part of our security guards. Mr. Mayrose was terminated in accordance with established policies. This action was not motivated by retaliation. We believed the employee's actions to be inconsistent with our mission to provide services to assure safety and security at nuclear plants.

Please be assured that Burns fully understands its responsibilities, and those of NRC licensees, to fully comply with the NRC's employee protection provisions of 10 C.F.R. § 50.7, as well as Section 211 of the Energy Reorganization Act. This company maintains a strong appreciation for the importance of maintaining an environment at nuclear power plants where all employees feel free -- and indeed are encouraged -- to raise safety and security issues without fear of retribution. We recognize the importance that a free flow of information plays to promptly identifying and correcting potential violations. Accordingly, we thoroughly support employees who report what they believe to be concerns, and actively work to prevent even the appearance of retaliation. While we certainly believe that the protection of 10 C.F.R. § 50.7 applies to mistaken reports as well as confirmed reports, we do not believe it extends to deliberately false reports.

In this regard, we take strong issue with the NRC's assertion in the cover letter for the NOV that our staff "exhibited careless disregard for the regulations applicable to employee protection in the wrongful discharge of Mr. Mayrose." Our staff was well aware of the applicable regulations, considered the implications of those regulations for the case at hand, and made a good faith professional judgment. There was not, in our view, "careless disregard" for regulations.

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Consistent with our responsibilities under 10 C.F.R. § 50.7, Burns maintains policies and procedures to encourage our employees to report potential issues and to prohibit improper discrimination. We conduct initial general training and annual refresher training for employees, emphasizing to employees their right to express concerns, and their right to do so without fear of retaliatory action. We also conduct training for managers on employee rights and management duties under the employee protection requirements, and have conducted remedial training since the incident involved in this NRC action. While we contest the enforcement action, we will continue to assure that our employees are free to raise issues with management, the licensee, or the NRC.

If you need any further information, or have any questions on this matter, please feel free to contact me at the above address.

Sincerely,




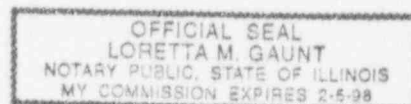
L. DelRosso  
President, Utility Business Unit

Burns International Security  
Services, Inc.

Attachment: Reply to Notice of Violation

cc: NRC Regional Administrator, Region II  
NRC Resident Inspector, Crystal River Nuclear Plant

Subscribed and sworn to before me this 10th day of November, 1994.

  
Notary Public

Date Commission Expires: Feb. 5, 1998

Docket No. 9999

ATTACHMENT

Burns International Security Services, Inc.

Reply to Notice of Violation

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Enforcement Action (EA) 94-135  
Office of Investigations Case No. 2-92-044R

November 10, 1994



Burns International Security Services, Inc.  
Reply to Notice of Violation  
Enforcement Action (EA) 94-135  
Office of Investigations Case No. 2-92-044R

As a result of an investigation conducted by the Office of Investigations ("OI") during the period from June 15, 1993 through June 6, 1994, the Nuclear Regulatory Commission ("NRC") identified an alleged violation of NRC requirements by Burns International Security Services, Inc. ("Burns") at the Crystal River Nuclear Plant ("Crystal River").<sup>1/</sup> The NRC's Notice of Violation ("NOV") cites the employee protection requirements of 10 C.F.R. § 50.7, and classifies the violation as a Severity Level II. Importantly, however, the NRC in its investigation did not substantiate the occurrence of a rumored security violation or that management concealed such a violation.

In accordance with 10 C.F.R. § 2.201 and the instructions in the NOV, Burns herein replies to and contests the NOV.

I. Restatement of Violation

"10 CFR 50.7 prohibits discrimination by a contractor of a Commission licensee against an employee for engaging in certain protected activities. Discrimination includes discharge or other actions relating to the compensation, terms, conditions, and privileges of employment. The activities which are protected include, but are not limited to, the reporting of alleged violations of requirements to an employer.

Contrary to the above, on November 5, 1992, Burns International Security Services, Inc. (Burns), a contractor of the Florida Power Corporation, discriminated against Scott T. Mayrose, an employee of Burns, in that Mr. Mayrose was discharged from his position as a security guard at the Crystal River Nuclear Plant for providing information concerning an alleged violation of regulatory requirements to his employer.

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<sup>1/</sup> S. D. Ebnetter letter to L. DelRosso, "Notice of Violation, Office of Investigations Case No. 2-92-044R (U.S. Department of Labor Case No. 93-ERA-37)," dated October 11, 1994.

## II. Burns Position on Violation

Burns respectfully contests the NOV. It is Burns' position that the incident cited by the NRC, the discharge of Mr. Mayrose from his employment as a security guard in November 1992, was not prohibited discrimination in violation of 10 C.F.R. § 50.7.

## III. Basis for Position

### A. The Termination was Based on Misconduct

#### 1. The William Bond Incident

Prior to Mr. Mayrose's conduct in question, and prior to the decision to terminate Mr. Mayrose, there was a separate matter involving Mr. William Bond. Mr. Bond was another Burns security guard employed at Crystal River who had been terminated in September 1992 for leaving an assigned post. An appreciation for this incident is essential to understanding the context of the Mr. Mayrose personnel action.

Mr. Bond was a member of the Response Team. On September 22, 1992, he left an assigned post without permission. This fact was not disputed. As a result of this misconduct, Mr. Bond's employment was terminated on September 23, 1992, for neglect of duty. Mr. Bond declined at that time to submit a nuclear safety concern and made no allegations regarding violations of NRC requirements.

Over the succeeding days in September and October 1992, Mr. Bond for the first time indicated that he wanted to file a nuclear safety concern, and began to generally refer to a security non-compliance he alleged to have occurred in June 1992. The issue, as it eventually emerged, involved an incident in June 1992 in which another security guard, Mr. Jeffrey Hunt, had been sent home because of sickness. The allegation was that in fact during this incident Mr. Hunt had been found asleep on duty, but that no action was taken against him and that this security violation was concealed by the supervisors involved.

This alleged violation was raised by Mr. Bond in conjunction with a grievance he was pursuing regarding his termination. Mr. Bond's argument was that this incident showed disparate treatment, i.e., that Mr. Hunt was not terminated for neglect of duty, but Mr. Bond was terminated for similar neglect. Self-interest was, very clearly, a motivating factor for Mr. Bond's allegation. The fact that this incident allegedly occurred in June 1992, and was not brought forward until September/October 1992, after Mr. Bond's termination and only then to support Mr. Bond's

personal interests, clearly was a factor in assessing the credibility of the allegation.

Mr. Bond's disciplinary action is not an issue in the present NOV.<sup>2/</sup> However, his allegation of a sleeping guard incident -- which was also made to Florida Power Corporation -- was investigated very seriously by both Burns and the licensee. The Burns inquiry was made by Mr. F.G. Harman, the Burns Nuclear Security Project Manager at Crystal River, and is documented by report dated October 14, 1992 (Attachment A). No violation was substantiated. The FPC Nuclear Security Superintendent, Mr. G.A. Longhauser, reached a similar conclusion in a report issued on November 3, 1992 (Attachment B). The NRC, in the present investigation and enforcement matter, also found no evidence of a violation of security requirements, and no evidence that Burns management concealed such a violation.

## 2. Mr. Mayrose's Statement

The conduct of Mr. Mayrose at issue arose out of the employment grievance of Mr. Bond and Mr. Bond's allegation of a concealed security violation. In conjunction with the inquiry into that allegation, on October 14, 1994, Burns solicited information from its security guards regarding the potential sleeping guard incident. Mr. Mayrose came forward with information at that time; this report, like Mr. Bond's, came four months after the purported incident.

Specifically, on October 15, 1992, Mr. Mayrose filed a written statement (Attachment C) explicitly supporting the alleged violation and implicitly supporting the grievance of Mr. Bond. The statement addresses an incident during the "mid-cycle outage (exact date unavailable)" in which there were rumors that Security Officer Hunt was sleeping on duty and was relieved of his post.

Mr. Mayrose's statement asserted that he (Mayrose) observed Officer Hunt frisk out, and based on Hunt's expression and attitude, "I knew something was wrong." In his statement, Mr. Mayrose then specifically refers to a statement made to him by a Mr. Crawford, who was near the post where Officer Hunt had been on duty. Mr. Mayrose further recounts, in very specific detail, a conversation in June with a Mr. Lambert. In the alleged conversation, Mr. Lambert supposedly told Mr. Mayrose that he

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<sup>2/</sup> Subsequently, Mr. Bond did file a nuclear safety concern with Florida Power Corporation alleging his termination to be retaliation in violation of 10 C.F.R. § 50.7. Upon investigation, Florida Power Corporation determined that this complaint lacked merit.



(Lambert) "was there at the time of the incident," that "in fact [the rumor] was true," and that Officer Hunt had "indeed proceeded to fall asleep" after assuming his post. As recounted by Mr. Mayrose, Mr. Lambert "and others" continued the tale with further specificity:

"The workers in the area tried twice to wake him [Officer Hunt] and keep him awake but with no avail. At that time one of the workers who was an acquaintance of Lt. Ulrich and knew that he [Ulrich] was on duty at the time contacted him and advised him of the situation. It was then explained to me Lt. Ulrich entered A-213 and proceeded to wake Sec. Officer Hunt up and ask if he needed to get up and walk around. Sec. Officer Hunt declined. Lt. Ulrich then proceeded to walk to the concerned workers in the area and talk with them. It was then that Mr. Lambert stated to me Sec. Officer Hunt fell back asleep. Lt. Ulrich noticed and proceeded to call Sec. Officer Hunt over the radio in the same room no more than twenty feet away with no reply, apparently asleep. Lt. Ulrich woke Sec. Officer Hunt, awaited post 8 to relieve Sec. Officer Hunt's post and escorted him from the area.

In his statement, Mr. Mayrose readily acknowledged that he had no personal knowledge of these events. He stated that he knew them only by the rumors that were circulating the shift at the time, and "[b]y the . . . statements that were made to me by workers that were present at the time. . . ."

Again, the alleged incident purportedly occurred some months prior to October 1992 (the statement refers to the "mid-cycle outage"). However, Mr. Mayrose had not raised any concern at the time of the alleged incident -- when the rumors were current and the supposedly corroborating statements of Mr. Crawford, Mr. Lambert, and "others" were first made to him. Likewise, he had not submitted a concern in the succeeding months, until October 1992. And, he raised the issue, coincidentally or otherwise, only after the same issue had been raised by Mr. Bond to support his grievance.<sup>3/</sup> Burns has never based its eventual employment action

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<sup>3/</sup> As subsequently became known, Mr. Bond and Mr. Mayrose had a relationship outside their employment at Crystal River. As reported by the Florida Power Corporation employee concerns (continued...)



against Mr. Mayrose on the delay in raising the issue, although such a delay is certainly not optimal employee conduct. However, Burns believes that the timing of the report is certainly a factor properly considered in assessing Mr. Mayrose's motivations and credibility.

### 3. Subsequent Inquiries and Investigations

In his October 14, 1992 report on the Bond allegation of the sleeping guard (Hunt) violation (Attachment A), Burns' Project Manager, Mr. Harman, had already concluded that the allegation was without merit. Mr. Harman found that Mr. Hunt had been sent home sick in June 1992. Mr. Harman also found that "Mr. Bond and Mr. Hunt had some personality problems and in Mr. Bond's quest to get even with Captain Craig and Lieutenant Ulrich for his [Bond's] termination, has made unsubstantiated allegations against all three employees." Attachment A, at page 3.

However, following Mr. Mayrose's statement, Mr. Harman looked into the issue further. He met with Mr. Mayrose and the union representative on October 20, 1992. During the interview, Mr. Mayrose reiterated the story in the October 15 statement, specifically and categorically stating that Mr. Crawford and Mr. Lambert had made statements to him, from their personal knowledge, regarding Mr. Hunt sleeping on duty. Mr. Harman's notes of this interview are provided as Attachment D.

During this interview, Mr. Mayrose reiterated that Mr. Crawford had come up to Mr. Mayrose and asked "if the guard [Hunt] was going to get in any trouble" -- a statement that in Mr. Mayrose's mind tended to confirm that something was wrong. During the interview Mr. Mayrose also reiterated the story that was told to him that night by "Mr. Lambert and others" who he described as having personal knowledge of Officer Hunt sleeping on duty. Only this time, he attributed the tale entirely to Mr. Lambert, with one exception; he felt that "maybe" Mr. Crawford had told him one of the details (that one of the workers who was an acquaintance of Lt. Ulrich had advised Ulrich of the situation). See

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<sup>3/</sup>(...continued)

representative, Mr. Hernandez, at the NRC enforcement conference of August 16, 1994, Mr. Bond and Mr. Mayrose filed nuclear safety concerns nearly simultaneously in December 1992 addressing their respective employment terminations. When Mr. Hernandez went to visit Mr. Bond at home to interview him concerning his matter, he found Mr. Mayrose present. Enforcement Conference Transcript ("Tr.") at 50-51. This certainly evidences a potential for cooperation and coordination between the two.

Attachment D, at 2. Thus, Mr. Harman had determined that Mr. Mayrose was attributing personal knowledge of the incident to, at most, two individuals -- Mr. Lambert and Mr. Crawford. Moreover, Mr. Mayrose was supporting his statement based on conversations he alleged to have had with these two individuals. It is the statements of Mr. Mayrose describing specific conversations with and ascribing specific comments to Mr. Crawford and Mr. Lambert that are at issue here.<sup>4/</sup> If Mr. Mayrose had simply reported a rumor, there would have been no subsequent employment action.<sup>5/</sup>

Florida Power Corporation also subsequently investigated the alleged sleeping guard violation. The licensee was made aware of the statements of Mr. Mayrose, and accordingly interviewed Mr. Crawford and Mr. Lambert (both Florida Power Corporation employees). The results are documented in Mr. Longhauser's November 3, 1992 report (Attachment B). Mr. Longhauser found the following:

- Mr. Crawford acknowledged that he was aware of rumors of a sleeping guard. But he "strongly stated that he was not involved in any such incident." He specifically denied the assertion that he, "as a supervisor, found a security officer asleep, was unable to wake him, and called a security supervisor to come wake him."
- "Crawford appears to be a stable and forthright individual. During the interview and discussions of any side issues, the discussion was open, eye contact was maintained, individual appeared comfortable, and responses were clear, concise, without hesitation."
- Mr. Lambert also stated, in direct conflict with the detailed statement of Mr. Mayrose, that he had "no personal knowledge of any security officer sleeping on post at [Crystal River 3]."

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<sup>4/</sup> The words ascribed to Mr. Lambert and Mr. Crawford by Mr. Mayrose technically are not "hearsay," where the only question is whether those statements were in fact made to Mr. Mayrose. As will be seen below, that indeed is the issue germane to the NOV (as opposed to whether those statements were true).

<sup>5/</sup> This point was reiterated at the enforcement conference. See Enforcement Conference Tr. at 77 (Thomas).

- There was "no reason to believe that the information provided by Lambert is not true to the best of his knowledge."

Based on these findings and others, Mr. Longhauser concluded that there was no basis for the allegations of a sleeping guard as made by Mr. Bond and Mr. Mayrose, and that "it is my firm belief and conviction that the allegations stem from a frustration on the part of the individual who was terminated [Bond], to shift the fault or blame from his own actions to fellow employees and supervisors." This conclusion was provided to Burns on November 3, 1992.

#### 4. The Mayrose Employment Decision

A rumor or allegation that a security guard is sleeping on duty is a very serious charge -- one that the management of Burns takes very seriously, as evidenced by the prompt inquiry into this particular matter. Burns also takes very seriously the need for character and integrity on the part of its security officers. These individuals are entrusted with the security of nuclear power plants. They are called upon to act with honesty, courage, and good judgment. They must work together as a team, with appropriate discipline and appropriate respect for other employees and for authority.

Consistent with these imperatives, Burns' company rules and disciplinary policy specifically prohibit making false, malicious or unfounded statements against other employees, supervisors, officials or subordinates with intent to destroy or damage reputations, authority or official standing. The rules and policy also prohibit "deliberate misrepresentation." This conduct is expressly identified as "conduct subject to discharge." (See Attachment E, Section 3.6.1).

Faced with the results of the Florida Power Corporation investigation into Mr. Mayrose's statement, and clear policies prohibiting false accusations and misrepresentations, Burns terminated Mr. Mayrose on November 5, 1992. The basis for the termination was misconduct -- not the raising of a potential security issue. Mr. Mayrose was terminated because he had submitted a statement to a Burns investigator on October 15, 1992, which he reiterated and expanded in a subsequent interview with the investigator on October 20, 1992, that was determined to include false statements concerning Mr. Crawford and Mr. Lambert.

Before reaching this employment decision, the Burns Project Manager (Mr. Harman) specifically consulted with the Burns Labor Relations Manager (Mr. Thomas) regarding the requirements of



10 C.F.R. § 50.7. The two concluded, based on all the information available to them at the time, that the personnel action proposed was not precluded by Section 50.7 -- because misconduct is not a protected activity.<sup>6/</sup> Had Mr. Mayrose simply reported a rumor, he would not have been terminated. Instead, he had made specific factual statements that could only have been deliberately false. Burns recognizes that Section 50.7 protects allegations that ultimately are determined to be without merit, but believes that the regulation does not protect acts of providing deliberately false evidence to an investigator.

In this case it is certainly true that management specifically weighed the credibility of Mr. Mayrose against that of Mr. Crawford and Mr. Lambert. There was nothing improper in doing so. The fact that Burns assigned more weight to the statements of Mr. Crawford and Mr. Lambert (regarding what was or was not said to Mr. Mayrose on June 20, 1992) does not make this employment decision a violation of Section 50.7. Mr. Mayrose's credibility was questionable because of the following factors:

- His statement was offset by the separate statements of two other individuals;
- The fact that he did not come forward with the information earlier;
- The fact that he brought it forward only in the context of supporting an acquaintance's grievance; and
- The Florida Power Corporation investigator's judgment, similar to that of Mr. Harman, that the allegation may have been motivated by personality conflicts between Mr. Bond and Officer Hunt, Captain Craig, and Lieutenant Ulrich.

On the other hand, there was no basis to question the credibility of either Mr. Crawford or Mr. Lambert. Both had independently denied the statements attributed to them by Mr. Mayrose, and had done so in a credible fashion according to the investigator involved. Neither had a personal relationship with either Mr. Mayrose, Mr. Bond, or Mr. Hunt.<sup>7/</sup> At bottom, the

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<sup>6/</sup> A discussion of these events is included in the Enforcement Conference Tr., at 75-77 (Thomas).

<sup>7/</sup> It is worth noting that Mr. Crawford and Mr. Lambert are Florida Power Corporation employees (not Burns employees)  
(continued...)



managers involved made a reasonable decision based on the evidence available to them, with the integrity of the security force as their overriding consideration.

#### 5. Subsequent Developments

The Burns managers' judgments regarding the veracity of the statements made by Mr. Mayrose were further supported by subsequent developments. Mr. Mayrose filed a complaint regarding his termination with the Department of Labor ("DOL"). During that proceeding, Mr. Mayrose's statements to Burns in October 1992, regarding what Mr. Crawford and Mr. Lambert saw, said, and did in June 1992, were directly in issue -- because, of course, the truth or untruth of those statements went directly to Burns' basis for the discharge. In a deposition, Mr. Crawford testified under oath that he had no personal knowledge of an officer asleep or sick on duty on the day in question, and that he did not tell anyone -- including Mr. Mayrose -- that he saw an officer asleep. Crawford Deposition (Attachment F), Tr. at 19-21. Mr. Lambert, to whom Mr. Mayrose ascribed detailed statements regarding the incident, also indicated through counsel that "he, at no time, ever advised Officer Mayrose that another security guard was asleep on his job"<sup>8/</sup> (Attachment G). These statements certainly support Burns' position that Officer Mayrose had misrepresented information related to this matter.

Burns recognizes that Florida Power Corporation investigated Mr. Mayrose's termination, based on a complaint filed by Mr. Mayrose with the licensee's Nuclear Safety Concerns Program. The results of the licensee's inquiry are documented in a report to Mr. Mayrose dated February 8, 1993, and to Burns management dated February 11, 1993. Burns simply disagrees with the conclusions of these reports. Contrary to the implication of the first report, Mr. Mayrose was not terminated because he presented "hearsay" and "rumor," or because that "hearsay" and "rumor" turned out to be unfounded. He was terminated because he misrepresented specific

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<sup>7/</sup> (...continued)

ordinarily assigned to the fossil side of the Crystal River power plant. In June 1992, they were temporarily assigned to the nuclear plant. However, by October 1992, when statements were attributed to them by Mr. Mayrose, they were no longer assigned to the nuclear unit. They had no contact with Mr. Mayrose at that time.

<sup>8/</sup> The DOL matter was resolved among the parties without the need to go to a hearing. Hence, Mr. Lambert never provided sworn testimony on this point, but we have no reason to question the integrity of his statement to counsel.

statements of fact. Contrary to the conclusion of the second report, and as discussed further below, it is overly simplistic to conclude that Mr. Mayrose's comments constituted protected activity, and therefore that a violation of Section 50.7 occurred. Misconduct and protected activity, while occurring at the same time, could be clearly separated in this case.

Nonetheless, at the request of Florida Power Corporation, Mr. Mayrose was reinstated by Burns at Crystal River. Under the terms of an agreement with his union on April 14, 1993, Burns agreed to reimburse full back pay (less unemployment) and full seniority and benefits. All references to the incident which resulted in his termination were expunged from his employment records.

B. As a Matter of Law, There Was no Violation of Section 50.7

1. Misconduct is not "Protected Activity"

Burns terminated Mr. Mayrose because he engaged in misconduct. If an employee engages in misconduct, precedent shows that misconduct is not protected merely because the employee has also engaged in protected activity. Because Burns had a legitimate and well established basis for discharging Mr. Mayrose, it has not violated Section 50.7.

Section 50.7, in fact, explicitly reserves the employer's right to discipline an employee for misconduct. "An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations." 10 C.F.R. § 50.7 (1994) (emphasis added). The terms of the regulation itself do not grant the employee immunity for any misconduct, even that which is intertwined with protected activity. Where one licensee required several employees to submit to polygraph tests during an investigation of a possible leak of safeguards information to the press, the Commission has held that "[e]ven assuming for argument that under appropriate circumstances providing information to the media is a protected activity, it is clear that disclosing safeguard information to the media is prohibited and, therefore, cannot be a protected activity." Arizona Public Service Co. (Palo Verde 1, 2, & 3), 27 NRC 639, 645 at n.7 (June 15, 1988). The Commission explicitly recognized that misconduct associated with protected activity is not entitled to Section 50.7 protection.

Precedent under Section 211 of the Energy Reorganization Act ("ERA") also firmly establishes that an employee is not immune from discipline simply because the conduct leading to the

discipline includes protected activity.<sup>2/</sup> Precedent under Section 211 recognizes that employers must be able to discipline employees who engage in misconduct, and that employees cannot insulate themselves from legitimate discipline for misconduct. DOL's approach has a sound basis in law and policy, adopting the framework from Mt. Healthy City School District Bd. of Educ. v. Doyle, 429 U.S. 274, 97 S.Ct. 568 (1977).

For example, a recent opinion addressing facts similar to the case at hand clearly demonstrates that protected activity can be effectively separated from misconduct and legitimate bases for discipline. Sluder v. Detroit Edison Co., Case No. 93-ERA-32, 7 DOL Dec. 39 (Sept.-Oct. 1993) (ALJ Recommended Decision and Order Sept. 29, 1993). In that case the complainant reported another employee's misconduct (working at a nuclear power plant under the influence of alcohol) to a supervisor. During the subsequent investigation, she deliberately lied to the investigators and later was fired for lying. The ALJ found that "Complainant's behavior underlying the putative protected activity [sic] produced, independent of the attempted preservation of anonymity,<sup>10/</sup> the legitimate basis for her dismissal, i.e., her false denials resulting in untrustworthiness." Id. at 42 (emphasis in original). The ALJ specifically found that lying is distinguishable from protected activity and may legitimately lead to discipline. Similarly, Mr. Mayrose provided false information to Mr. Longhauser and Mr. Harman during the investigation, which was the basis for the disciplinary action.

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<sup>2/</sup> Although much of the caselaw on misconduct and protected activity involves DOL proceedings instituted under Section 211 of the ERA, that law provides insight about the scope of protected activity under 10 C.F.R. § 50.7. Section 50.7 is closely related to Section 211. The NRC promulgated Section 50.7 in order to "implement Section 210" (IE Information Notice No. 84-08) and to codify in its regulations "the statutory prohibition of discrimination of the type described in Section 21[1]" (47 Fed. Reg. 30,452).

<sup>10/</sup> Sluder attempted "to preserve her anonymity" by falsely denying that she had reported a safety concern. Providing false information has not generally been considered protected activity, even in other contexts. See, e.g., Sahara Datsun, 278 NLRB 1044 (1986), enf'd, 811 F.2d 1317 (9th Cir. 1987). In Sahara, an employee attempted to retaliate against his employer for alleged attacks on his credibility and the union's character by providing false information to the company's creditors. These false statements were not protected under the National Labor Relations Act and he could be disciplined for his actions, despite the fact that he could have engaged in otherwise protected activity.



Other past NRC and DOL decisions have shown that when job performance issues are intertwined with protected activity, the employer may still take appropriate disciplinary action to punish misconduct. See, e.g., Commonwealth Edison Co. (Braidwood Nuclear Power Station, Units 1 and 2), LBP-87-14, 25 NRC 461 (1987). In Braidwood, the Commission found that the licensee did not violate 10 C.F.R. § 50.7 when it terminated a QC inspector who raised questionable safety concerns, leading his supervisor to lose confidence in his technical judgment and expertise. In Dunham v. Brock, 794 F.2d 1037 (5th Cir. 1986), a whistleblower verbally abused management and challenged his supervisors to fire him during an internal "counseling" meeting. In response, management terminated the whistleblower. The Fifth Circuit upheld the Secretary of Labor's decision that the worker was not immune from discipline for misconduct arising from his protected activity.

Other Section 211 precedent further confirms that an employer may discipline an employee who engages in misconduct that can be separated from potentially protected activity. See, e.g., Lockert v. United States Dept. of Labor, 867 F.2d 513 (9th Cir. 1989); Dartey v. Zack Co. of Chicago, Case No. 82-ERA-2, Decision and Final Order (Apr. 24, 1983). In Lockert, the complainant left his assigned station to conduct research on safety violations at Diablo Canyon Nuclear Plant and was fired. Despite the fact that the research itself was protected activity, the Ninth Circuit held that the company was justified in terminating the employee because he violated company policy by leaving his work area without permission. Furthermore, like Burns and Mr. Mayrose, the discipline was in accordance with a well-established, well-known employment policy which prohibited the employee from engaging in the behavior he was disciplined for.

The Dartey case concerned an employee who was terminated for removing confidential personnel records in his efforts to document safety violations. The Secretary of Labor held that, even though the alleged was taking the documents to aid the NRC, the discharge was justified because removing the documents was prohibited by company policy.

In yet another case, a nuclear employee who taped conversations, ostensibly to identify safety issues, was disciplined for misconduct in spite of the potentially protected nature of the actions. Mosbaugh v. Georgia Power Co., Case Nos. 91-ERA-1, 91-ERA-11 Recommended Decision and Order (Oct. 30, 1992). The Mosbaugh DOL decision stated that "assuming Mosbaugh's tape recording was protected at the outset, its continuation and scope became so egregious and potentially disruptive to the workplace that it lost any protected status it may have once possessed." Recommended Decision and Order at p. 35.



Like the facts now at issue, all of these cases involved individuals who, in the course of engaging in allegedly protected activity, also committed misconduct of some sort or demonstrated performance problems. Although one cannot take adverse action against an employee for protected activity, all of these cases demonstrate the need to distinguish misconduct and performance issues from protected activity. All of these cases upheld discipline for the legitimate issues.

Burns understands and realizes that Section 50.7 and Section 211 protect an employee who raises a safety concern, even if that concern, upon later investigation, is discovered to be unfounded. However, it is the company's position that Mr. Mayrose violated well-known, written, and established policies, and that Burns was merely disciplining Mr. Mayrose for that misconduct. As discussed above, given the evidence available to Burns, management could only conclude that Mr. Mayrose's statements were fictitious. They concluded that Mr. Mayrose did more than just report a safety concern to his supervisors; he provided facts to the investigators which he must have known to be false. This conduct, like in Sluder, is entirely separate from any protected activity and is thus outside the scope of Section 50.7.

2. The NRC has not Met Its Burden of Proof to  
Establish a Violation of Section 50.7

The NRC has the burden of proving a violation of 10 C.F.R. § 50.7. See 10 C.F.R. § 2.732. Section 50.7(d) specifically provides that the "prohibition applies when the adverse action occurs because the employee has engaged in protected activities" (emphasis added). The NRC has not supported the asserted violation, including the alleged causal link to protected activity, by any showing of facts.<sup>11/</sup> Instead, the NOV and cover letter simply conclude that Burns' "judgment was incorrect that Mr. Mayrose's rights as a protected employee were negated by the assertion that he had engaged in misconduct." NOV, cover letter at 2. This NRC assertion seems to be the sole basis for the NOV. We believe this statement to be, quite simply, a misstatement of the law as discussed above. Thus, the NOV cannot stand.

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<sup>11/</sup> The NRC does allude in the cover letter, at p. 2, to "additional testimony obtained from other Burns security guards during the OI investigation [that] substantiated Mr. Mayrose's contention that there were prevalent rumors to the effect that a guard had been sleeping on post." However, Burns has never denied the existence of rumors. Both Burns and the licensee were in fact investigating those rumors. Mr. Mayrose was not terminated for reporting rumors.

The timing of the employment action also does not alone establish a violation of Section 50.7. Under established burden of proof schemes applicable to disputes like this one, Burns' obligation would be to establish that it had -- in real time -- a legitimate business reason for discharging Mr. Mayrose. Burns has met this burden: during the course of an investigation of a potentially serious safety violation, Mr. Mayrose provided information to investigators that the managers in good faith concluded to be deliberately false. Burns' employment policy prohibits lying. The disciplinary policy lists this as conduct subject to discharge.<sup>12/</sup> Mr. Mayrose's actions were fundamentally inconsistent with Burns' duty to the licensees, the Commission, and the public to provide nuclear power plants with reliable, trustworthy security services.

It is beyond dispute that the real time rationale for the employment decision was misconduct. Exercising its judgment in good faith, Burns made its employment decision based upon the information available to it at the time of the decision. The exercise of such a judgment is not bound by strict evidentiary standards. See Waters v. Churchill, 62 USLW 4397, 4401 (1994). The rightness, wrongness, or even fairness of that decision is not at issue here. What is at issue in the present case is whether the decision was made because of protected activity; i.e., whether it was retaliatory. There is no evidence pointed to by the NRC supporting the proposition that the decision was motivated by retaliation.

Since Burns has demonstrated that there was a legitimate business reason for Mr. Mayrose's termination, based on sound employment principles and policies, it would be incumbent upon the NRC to demonstrate that Burns' decision to terminate Mr. Mayrose for making material misstatements of fact was but a pretext for discriminatory intent. In other words, to support the NOV, the NRC would be required to demonstrate that Burns did not conclude that Mr. Mayrose was lying or, if it did, that Burns nevertheless actually terminated Mr. Mayrose for a different reason -- his protected activity. There are no facts that demonstrate that Burns did not in good faith believe at the time that Mr. Mayrose had deliberately lied. There is thus no showing that Burns' stated and legitimate reason for discharging Mr. Mayrose was unreasonable or a pretext. Moreover, we are aware of no evidence of a retaliatory

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<sup>12/</sup> This policy is consistent with the NRC Enforcement Policy, which states that the NRC's "regulatory program is based on licensees and their contractors, employees, and agents acting with integrity and communicating with candor." 10 C.F.R. Part 2 (App. C) (1994) (emphasis added). However, whether the NRC believes the policy is fair or appropriate is beside the point here.

motive, nor has any evidence of such a retaliatory animus been presented in the enforcement action. If Mr. Mayrose had not lied, no action would have been taken against him.<sup>13/</sup>

The NOV cover letter states only that "[t]here is no evidence that Mr. Mayrose made the statements regarded by Burns to be false and malicious to anyone other than in his written report. . . ." This statement does not present or suggest evidence of intent to retaliate, such as would be required to show the rationale for the employment decision to be pretext. In fact, this statement has the burden of proof backward. There was evidence that Mr. Mayrose's statements were liberally false (i.e., the statements of Mr. Crawford and Mr. Albert) and there were reasons (discussed above) to discount Mr. Mayrose's credibility. The burden in proving a violation of Section 50.7 is on the NRC, and to meet this burden there must be evidence that shows the pretextual nature of the management rationale. There simply is no factual basis provided for the NRC's conclusion in this case that the personnel action was retaliatory. With all pointing to such evidence, the Commission cannot conclude that a violation of Section 50.7 occurred.

Finally, even if the NRC had determined that Mr. Mayrose's termination was the result of mixed motives (i.e., had there been some evidence of retaliatory intent), then Burns would be required to show that Mr. Mayrose would have been terminated regardless of whether or not he engaged in protected activity. Compare 42 U.S.C. § 5851(b)(3)(D); Mt. H <sup>thy</sup>, supra, 429 U.S. 274, 97 S. Ct. 568 (1977). Burns would still have met this standard, precisely because Mr. Mayrose provided false information, in violation of the company's disciplinary policy and contrary to the requirement that security guards act with the utmost integrity.

#### C. The NRC's NOV has Serious, Adverse Policy Implications

This NOV, if sustained, would allow "protected activity" to include behavior that is completely inconsistent with the goals of safe and efficient nuclear power plant operation. Such an expansive reading of Section 50.7 would have serious, adverse policy implications.

First and foremost, upholding this NOV would extend Section 50.7 protection to security guards who provide disinformation. The NRC would be sanctioning the misrepresentation of facts to management, the licensee, and the NRC. In the event of an emergency, security guards are the first line of defense at a nuclear power plant. Because of their key role, it is imperative

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<sup>13/</sup> See Enforcement Conference Tr. at 77 (Thomas).

that management and the licensee have the utmost confidence in the discipline and reliability of their security service providers. Those who provide security services must therefore have impeccable character and integrity. Upholding the NOV would significantly impair contractors' and the licensees' ability to attract and retain a high quality security force, one that can be relied upon in the event of an emergency to perform its duty to protect the power plant.

In addition, this expansion of the protection of Section 50.7 would erode management's ability to manage the workforce, because individuals who claim "protected status" will be able to openly defy established management policies and directives and well-known standards of conduct. This is not a case of a mistaken assertion of a safety concern, or a technical violation of an obscure workplace regulation. This case involves conduct that was contrary to the legitimate requirement that security guards act with respect for fellow employees and for authority. Management must be allowed to discipline an employee for what it believes to be a violation of any important personnel policy. Retaining authority and discipline, and an atmosphere of respect and trust, is essential for security organizations to effectively execute their obligations to the licensee and to the NRC. The policy reflected in the NOV would undermine the effectiveness of the organization entrusted to protect safety and security.

At bottom, a line must be drawn between legitimate performance issues and protected activities. While it may sometimes be difficult to separate performance issues from protected activity, the Sluder DOL decision demonstrates that it is not impossible, and that it is effort well spent. To extend blanket protection to any behavior arguably connected with protected activity would be to write the proverbial "blank check" to disgruntled employees seeking to retaliate against managers and supervisors they dislike by claiming hostile actions. Employees would be able to fabricate deliberately false accounts of safety issues in order to blacken the record of supervisors or co-workers, secure in the knowledge that any action taken against them for false accusations would be cause for action against the employer by the NRC. At nuclear power plants, where trust and openness are essential to security and safe operation, a decision to uphold the NOV would undermine the goals the NRC seeks to attain.

D. Burns Disputes the NRC's Characterization that there was "Careless Disregard" for Section 50.7

Burns also respectfully protests the NRC's labeling, in the NOV cover letter, of managements' actions in this as involving "careless disregard" for NRC regulations. Burns believes that it did not violate NRC regulations. However, even if the Commission



eventually concludes that a violation did occur, the actions of the managers involved cannot amount to "careless disregard" for the requirements of Section 50.7. These individuals made serious, deliberate efforts to comply with the letter and spirit of the regulations, and therefore their actions cannot legally constitute "careless disregard" of Commission regulations.

"Careless disregard," under the NRC's Enforcement Policy, is a component of "willful" conduct, but one that does not include "inadvertent clerical errors." See 10 C.F.R. § 2, App. C, Part IV.C. This definition is fleshed out even further in caselaw. "Careless disregard" entails conduct that is more than merely negligent, and indicates that the alleged violator did not care what its obligations were under the law. See, e.g., In the Matter of Reich Geo-Physical, Inc., ALJ-85-1, 22 NRC 941 (1985); Alabama Power Co. v. Federal Energy Regulatory Comm'n., 584 F.2d 750 (5th Cir. 1978); McLaughlin v. Richland Shoe Co., 486 U.S. 128, 108 S.Ct. 1677 (1988). It is a term employed to characterize an action that is done without grounds for believing it is lawful.

The actions of the managers involved in this case did not constitute "careless disregard" of NRC regulations. At the time these individuals became aware of Mr. Mayrose's violations of Burns' employment policy, they were well aware of the requirements of Section 50.7. Cognizant of the dilemma they were faced with, the Crystal River Project Manager (Mr. Harman) specifically discussed the situation with the corporate Labor Relations Manager (Mr. Thomas). Together, Mr. Harman and Mr. Thomas made a good faith effort to consider the law and determine Burns' obligations under Section 50.7. Aware of DOL precedents, the managers made a reasonable judgment that termination of Mr. Mayrose for lying to investigators would not violate Section 50.7 -- precisely because they believed, in good faith, that NRC regulations did not protect misconduct of the type they believed to be at issue.

The considered attempt made in this case to evaluate the implications of Section 50.7 -- regardless of one's ultimate conclusion on the rightness or wrongness of the judgment made -- certainly prevents a finding of "careless disregard" of NRC regulations. A licensee's failures to comply with NRC regulations are not willful violations and/or in "careless disregard" of those regulations if the licensee made "serious albeit defective" attempts to comply with those regulations. Wrangler Laboratories, 30 NRC at 780. Therefore, Burns respectfully requests that the assertion of "careless disregard" be withdrawn.

#### IV. Corrective Steps Taken and Actions to Prevent Recurrence

Burns is no longer the security contractor at Crystal River. However, to address this issue and the potential for

"chilling effects" on employees raising concerns, Burns took the following corrective actions in 1993 at Crystal River:

- As stated above, by agreement with Mr. Mayrose and his union on April 14, 1993, Mr. Mayrose has been made whole. He was reinstated with full back pay (less unemployment), and full seniority and benefits. All references to the incident were expunged from his employment records. This action certainly had the effect of addressing any "chilling effect" on Burns employees raising issues as may have been created by this incident.
- In early 1993, following Florida Power Corporation's preliminary conclusion that improper discrimination had occurred, Burns conducted and completed a review of its policies and procedures at Crystal River for potential conflicts with Section 211 of the Energy Reorganization Act and 10 C.F.R. § 50.7.
- In early 1993, following the inquiries regarding this issue from the licensee, Burns conducted and completed a review of all training programs for its supervisors at Crystal River pertaining to Section 211 of the Energy Reorganization Act and 10 C.F.R. § 50.7. All Burns supervisors received training, both initially and annually, during "Green Badge" training conducted by Florida Power Corporation. This training included a review of the requirements of Section 211 and Section 50.7. However, following this incident and the review of training programs, Burns directed its nuclear security training staff at Crystal River to develop a lesson plan to review the specifics of Section 211, Section 50.7, the Nuclear Safety Concern Program, and the roll and responsibilities of supervisors. This training was provided to Burns supervisors at Crystal River in March 1993, and was to be conducted annually.
- In early 1993, this incident -- and the appearance of impropriety -- was also specifically reviewed with all Burns supervisors at Crystal River. Again, the potential for any "chilling effect" was addressed by this action.

To assure that Burns conducts its operations throughout the nuclear industry in compliance with 10 C.F.R. § 50.7, and with due respect for the right of all individuals to come forward with potential issues to management, the licensee, and the NRC, Burns has also taken the following actions:

- Burns has developed a policy promoting a work environment which encourages the free, complete, and full flow of

employee information and concerns regarding safety and health matters in the workplace. The policy encourages employees to raise concerns and explains that Burns will take appropriate action to ensure that there is not retaliation or discrimination as a result. The policy is to be posted in all Burns nuclear facilities, reviewed with and distributed to all supervisors and managers, and reviewed with and distributed to all security officers.

- Burns reaffirmed, following a previous and separate NRC enforcement action (and subsequent to the events addressed in the present NOV), with all Region and District Managers its policy of full and complete compliance with NRC regulations, including Section 50.7.
- During initial general training for its employees, Burns will continue to emphasize to employees their right to express concerns about health and safety matters, and their right to do so without retaliatory action.
- During annual training sessions for its employees, Burns will continue to reaffirm to employees their right to express concern, their right to do so without retaliatory action, and the steps available should they believe that retaliation has occurred.

V. Date of Full Compliance

Burns is presently in full compliance with the requirements of 10 C.F.R. § 50.7.



ATTACHMENT A



Burns International Security Services  
Crystal River Utility Branch  
P O Box 219 Mail Code NA2E  
Crystal River Florida 32629-8011

October 14, 1992  
BIS92-0163

To: G.A. Longhouser, FPC Nuclear Security Superintendent  
From: F.G. Harman, Burns Nuclear Security Project Manager  
Subject: Former Employee Allegation Involving Violation of NRC Rules

On September 23, 1992, Mr. William J. Bond was terminated for abandonment of his post. At this time, Mr. Bond was given an opportunity to write a statement for record, and to read, sign, and submit a "Record of Nuclear Safety Concern". Mr. Bond "did not" submit a Record of Nuclear Safety Concern nor did his statement of September 23, 1992 (Attachment A) contain any allegation concerning a violation of NRC rules by another Burns employee or supervisors.

On September 24, 1992, Mr. Bond called the Acting Project Manager, Mr. Albert H. Engel, and stated that he wanted to make a Nuclear Safety Concern complaint. He was asked to come in and make the complaint. On September 25, 1992, Mr. Bond came in to pick up his paycheck and told the on-duty Lieutenant, Robert L. Walters, that "he" found a Security Officer asleep on his post and that Captain Stanley C. Craig and Lieutenant Douglas D. Ulrich, had done nothing about it (Attachment B). Mr. Bond was advised to contact Mr. Engel, and upon doing so, stated that he "did not" wish to make the complaint at that time, but would wait for his Union arbitration hearing. Mr. Bond was supplied with the name and telephone number of Mr. Vic Hernandez (the FPC employee who handles Nuclear Safety Concerns) and a Nuclear Safety Concern Form.

On October 5, 1992, upon my return from vacation, I received a copy of a grievance which Mr. Bond's Union had submitted to my Regional Manager, Mr. Lee Lantzy. Mr. Bond felt his termination was too severe for the offense of abandonment of his post and stated that he "personally" caught an individual sleeping on a post and that Lieutenant Ulrich had personally caught the same individual sleeping "several" times and all the individual got was a day off. (Mr. Bond did not name the individual who he claims was sleeping on Post.) I investigated his grievance allegations and found no justification to reconsider his termination for cause and informed the Burns' Labor Relations Manager that until he named the individual in question, no further action on his allegation of catching an employee asleep would be taken. (A copy of my response to Mr. Bond's grievance dated October 6, 1992, was previously forwarded to you.)

ATTACHMENT

At 1220, October 13, 1992, Mr. Bond called me and wanted to know the date during the past outage that Mr. Jeffrey A. Hunt (a Security Officer assigned to D Team) was sent home because of sickness. I asked him why he needed this information and he stated that he needed the date for a report he was submitting to NRC. He further stated that Jeffrey Hunt was found asleep on duty and the incident was swept under the rug by the Captain and Lieutenant. I asked him if he had personal knowledge of this incident and he said, "yes!". He would not elaborate, and again asked for the date that Mr. Hunt was sent home. I told him that personnel and attendance records were privileged information, releasable only to authorized officials and that I would release this information when an "official" inquiry was made. He said he would let the Labor Board know of my refusal to cooperate and hung up.

Mr. Bond and the rest of our Security Force employees were indoctrinated concerning their responsibilities to the public in carrying out their duties as Nuclear Security Officers and the requirement that they go up the chain of command, or if they so choose, "direct" to the NRC, when security violations which were reported to supervisors, are ignored by supervisors. His veracity is extremely questionable as he lied to his Captain prior to termination action, when he stated that he made one round of the Protected Area and then after re-questioning, said that he only went around the east side of the Berm (if even that). In addition to his lack of truthfulness, he appears to be a very vindictive individual who will go to any extreme to get even with any person that he has a personality conflict with or he feels has done him wrong. (See Attachments C and D from interviewed employees.)

Inasmuch as Mr. Bond specifically named the employee who he alleged was asleep on Post, I felt it was necessary to conduct a supplemental inquiry to my grievance investigation of October 6, 1992. The following findings are a result of this inquiry:

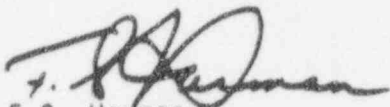
1. The only date that Mr. Hunt was sent home sick during the past outage was at 1945 on June 20, 1992, and is documented in Attachments E and F. Mr. Hunt subsequently called off sick on June 21, 1992, and this is documented in Attachments G and H.
2. In Attachment B, Mr. Bond alleged that "HE" found someone asleep on an active post and that he had people to verify this and that Lieutenant Ulrich and Captain Craig knew about the incident. The "Hourly Post Assignments Sheet" for June 20, 1992 (Attachment I) shows that Mr. Hunt was assigned as VAP-1 (Post 8) and to the Personnel Hatch (Post 25) where he was relieved around 1935 because of sickness. During this time, Mr. Bond was assigned as Waterfront Patrol (Post 11) and to the Vehicle Gate (Post 18). Accordingly, he "could not" have personally found an individual (Mr. Hunt) sleeping on post as he claimed in Attachment B and his Grievance statement, Attachment J. (Again, his truthfulness is questionable!)



G.A. Longhouser  
October 14, 1992  
Page Three

3. After questioning Mr. Hunt, Captain Craig and Lieutenant Ulrich concerning Mr. Bond's allegations, it appears that Mr. Bond and Mr. Hunt had some personality problems and in Mr. Bond's quest to get even with Captain Craig and Lieutenant Ulrich for his termination, has made unsubstantiated allegations against all three employees (see Attachments B, C, D, J, K, L, and M).

Until Mr. Bond submits his Nuclear Safety Concerns and substantiates his allegations of violations of NRC rules by specific facts, no further action is deemed appropriate.

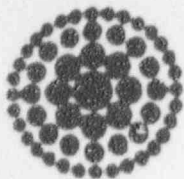


F.G. Harman  
Burns Nuclear Project Manager

FGH/ck

cc: L. Lantzy  
G. Thomas

ATTACHMENT B



Florida  
Power  
CORPORATION

## INTEROFFICE CORRESPONDENCE

Nuclear Security Department

NA2E

240-3178

SUBJECT: Results of Investigation regarding Allegations that Arose  
as a Result of Contract Security Officer's Termination

Reference: W.J. Bond

TO: File

DATE: November 3, 1992  
SEC92-0152

### CONFIDENTIAL

As a result of the contractor's investigation into subject, the following FPC employees were identified:

John C. Crawford - who at the time of the allegation was in a position upgraded to Supervisor, Building Services. He is now working as an electrician (SMC) at Unit 1/2 Coal Plant.

Derry W. Lambert - who was a building serviceman at the time of the allegation and is now working (SMC) at the Unit 1/2 Coal Yard.

Roger C. Nedrow - who was working as a building serviceman (temporary) and is now in the same position.

The interview was conducted by the writer, and during the course of the interview, the following questions were emphasized and asked:

1. Do you know a security officer by the name of:

William (Jeff) Bond  
Jeff Hunt  
Scott Mayrose  
Edward McGunnigle

2. What is your relationship to the above?
3. What is your relationship to Mr. Bond?
4. Do you have personal knowledge of the alleged incident (as described by the writer)?
5. Have you ever been directly aware of any security officer sleeping while on duty within the CR-3 Protected Area?

My discussions and interview with Mr. Crawford revealed that other than hearsay and rumor, the response to the questions were negative.

ATTACHMENT



One of the points of issue that was alleged was that "Crawford, as a supervisor, found a security officer asleep, was unable to wake him, and called a security supervisor to come and wake him." Crawford strongly stated that he was not involved in any such incident; that he was aware that a security officer may have been relieved but could not say whether it was from sickness or sleep. Rumor indicated to Crawford that he was sleeping. Crawford had no knowledge of this accusation.

Crawford, while acknowledging that he may know the individuals Bond, Hunt, Mayrose and McGunnigle, he could not put a name to any of the personalities but may know them from visual recognition. Crawford had no personal knowledge of any security officer sleeping on post.

Crawford appears to be a stable and forthright individual. During the interview and discussions of any side issues, the discussion was open, eye contact was maintained, individual appeared comfortable, and responses were clear, concise, without hesitation.

The interview with Derry Lambert was much the same as the feedback from Crawford. He acknowledged that he may know some security officers by sight, some more than others, has no personal off-site relationships with any of the security officers identified, and has no personal knowledge of any security officer sleeping on post at CR-3.

Lambert indicated by some of his responses that he was aware of the situation but strictly through third-party rumor and hearsay. Mr. Lambert is a younger employee, early 20s, mannerism is quiet, information required based on the questions and conversation had to be somewhat leading to elicit information in a voluntary manner. Even so, I have no reason to believe that the information provided by Lambert is not true to the best of his knowledge.

In completing the interview with Roger Nedrow, the following information was elicited. Mr. Nedrow indicated that he probably knows the individuals named above, had a close relationship with Bond, both on and off site, Bond's girlfriend, etc.

Nedrow's response to the questions previously identified appeared to be guarded while Nedrow did not acknowledge that he had personal knowledge or had ever been directly aware of any security officer sleeping on post within the CR-3 Protected Area. He (Nedrow) attempted to make a case for a "well, maybe I didn't see him sleeping but maybe I saw him with his eyes closed." "I guess I may have caught him with his eyes closed and kicked the chair in a humorous game playing way to surprise or startle." During this response, Nedrow identified Mr. Hunt by name. In going over this volunteered information, I continued to revisit the issue of personal knowledge which Mr. Nedrow continued to dodge.


ATTACHMENT {

Results of Investigation  
November 3, 1992  
Page Three

Nedrow appears to be a young man, middle to late 20s, who had indicated previous knowledge of the entire scenario (both the termination of Bond and the subsequent allegation by same), and appeared to be torn between elements of the trust and loyalty. While appearing not wanting to support that Hunt may have been asleep, at the same time, he did not want to violate the friendship and loyalty he felt he owed to Bond. When discussing this point specifically, Nedrow denied and said that he had no intention of directly helping Bond.

While the information gained from the interview with Nedrow was the closest response to support the allegation, at no time could a direct charge be elicited.

Based on my review of the Project Manager's decision to terminate, the statements of those involved, and interviews with FPC employees who were named as substantiating the allegations, it is my firm belief and conviction that the allegations stem from a frustration on the part of the individual who was terminated, to shift the fault or blame from his own actions to fellow employees and supervisors.



G.A. Longhouse  
Nuclear Security Superintendent

GAL/ck

ATTACHMENT

ATTACHMENT C

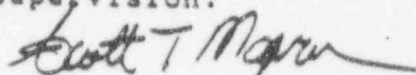


October 15, 1992

The following statement consists of my account concerning the accusation of Security Officer Hunt sleeping on post.

At or about 1830-1930 during the mid-cycle outage ( exact date unavailable ) while posted on post 15 I received a radio transmission from post 3 ( Lt. Ulrich ) to be 51 ( enroute ) to Chem. Rad. and stand-by. While awaiting post 3 ( Lt. Ulrich ), I was at a position where I could see post 3 and Sec. Officer Hunt frisk out. From the expression on Sec. Officer Hunt and the attitude from post 3 I knew something was wrong. At the conclusion of them frisking out I was handed the keys and V.A.P. badge and told to assume post 8, the original post 8 relieved Sec. Officer Hunt who was posted at the personnel hatch. At that time I proceeded to the personnel hatch to ask the security officer posted if he had any information on the reason Sec. Officer Hunt was escorted from his post by post 3. When I confronted the security officer he knew no more than myself. I then proceeded to the PAX phone to contact badge board if they had any information concerning this incident. I noticed there were 5-6 Rad. waste and or bldg. service personnel looking somewhat concerned. At that time a Mr. Crawford asked me if the guard was going to get in any trouble, I thought this to be an odd thing to ask and it only confirmed my impression something was wrong. I replied to Mr. Crawford, "I didn't know". During the remainder of the night I heard of rumors from not only people from my own shift but from personnel from other departments that were working at the personnel hatch at the time of Sec. Officer Hunt's tour, that he was caught asleep on post. I took this information as only rumors since I did not witness this myself until the hour I was posted at the personnel hatch. It was then explained to me by a Mr. Lambert who was there at the time of the incident that in fact it was true. He (Mr. Lambert ) and others stated to me that shortly after Sec. Officer Hunt assumed post that he indeed proceeded to fall asleep. The workers in the area tried twice to wake him and keep him awake but with no avail. At that time one of the workers who was an acquaintance of Lt. Ulrich and knew that he was on duty at the time contacted him and advised him of the situation. It was then explained to me Lt. Ulrich entered A-213 and proceeded to wake Sec. Officer Hunt up and ask if he needed to get up and walk around. Sec. Officer Hunt declined. Lt. Ulrich then proceeded to walk to the concerned workers in the area and talk with them. It was then that Mr. Lambert stated to me Sec. Officer Hunt fell back asleep. Lt. Ulrich noticed and proceeded to call Sec. Officer Hunt over the radio in the same room no more than twenty feet away with no reply, apparently asleep. Lt. Ulrich woke Sec. Officer Hunt, awaited post 8 to relieve Sec. Officer Hunt's post and escorted him from the area.

By the above statements that were made to me by workers that were present at the time and the rumors from my own shift, I have no reason not to believe an NRC violation had indeed taken place and was then covered up by "D" shift supervision.

  
Response Team Member  
Scott T. Mayrose  
"D" shift

ATTACHED -

ATTACHMENT D



*Questioned  
1630-1730  
10/20/92*

Statement of Scott T. Mayrose dated 10/13/92

- (1) You state that from the attitude of Lt. Ulrich and the expression of Security Officer Hunt, you knew something was wrong?  
*LT - He appeared agitated/outraged. Hunt appeared concerned.*  
What specifically was Lt. Ulrich's attitude?
- (2) Did you question Lt. Ulrich or any other member of supervision concerning the relieving of Security Officer Hunt?  
*He figured they were busy with paper work.*  
If not, why not, since you went to such extremes to find out what happened.  
*I was concerned about the status of this employee or any one on the*
- (3) You state that you proceeded to the Personnel Hatch and asked the Security Officer posted there if he had any information on the reason S.O. Hunt was escorted from his post by Lt. Ulrich. You said he knew no more than yourself?  
*Chief Keen -*  
Who was the Security Officer - He specifically told you he knew no more than you? (Reader printout indicates it was Security Officer George Keen.)  
*Says Keen did not mention anything about Hunt's sick. That he can remember - it was 4 mos. ago.*  
(Note: S.O. Keen's statement specifically addresses the fact that S.O. Hunt was sick and was going to be sent home. Yet, Mayrose says he know of no reason??)
- (4) You state you contacted the Badge Board by PAX phone to see if they had any information, but didn't state what their response was? What was it?  
*Didn't know anything at time of call. (McGowan) That an RBC employee named HEDROW mentioned. Officer always*  
Again, why didn't you ask a supervisor if your so interested?  
*Didn't feel that they were available at the time.*
- (5) You state that there were 3-6 RAD waste and/or Building Service personnel looking somewhat concerned.  
*In the HP station.*  
Where was this and what caused you to assume that this concerned look was contributable to this incident?  
*Work with these people and know them well.*
- (6) Did Mr. Crawford come to you and ask you "if the guard was going to get in any trouble" or did you initiate the conversation and discuss the alleged incident?  
*He came to me and asked me.*

Since you state that this confirmed your impression that something was wrong - why didn't you contact supervision instead of relying on "rumors" from your fellow employees?

*Told it was rumors so far.*



Statement of Scott T. Mayrose dated 10/13/92  
Page Two

- (7) You state that you also "heard rumors from "other" departments that were working at the personnel hatch at the time of Security Officer Hunt's tour, that Security Officer Hunt "was caught asleep on post."

What Departments?

*RAD waste & Bldg. Services*

What Employees?

*Can't recall names - 4 or 5 yrs.*

- (8) You state that "A Mr. Lambert" and others stated to "you":

A. That shortly after Security Officer Hunt assumed post that he indeed proceeded to "fall asleep":

- (1) Did Mr. Lambert say this or one of the others?  
If others, who? *Lambert with 2 other employees who*  
*can't remember names.*

B. The workers in the area tried "twice" to wake him and keep him awake but to no avail.

- (1) Did Mr. Lambert say this or one of the others?  
If others, who? *Lambert*

C. That one of the workers who was an acquaintance of Lt. Ulrich advised him of the situation.

- (1) Did Mr. Lambert say this or one of the others?  
If others, who? *Maybe Crawford.*

(2) Who is the acquaintance of Lt. Ulrich? *I think Lambert*

D. It was then explained to you that Lt. Ulrich entered A-213 and proceeded to "wake" Security Officer Hunt and asked him (Hunt), if he needed to get up and walk around.

- (1) Did Mr. Lambert say this or one of the others?  
If others, who? *Lambert*

E. That Lt. Ulrich then proceeded to walk to the concerned workers in the area and talk with them.

- (1) Did Mr. Lambert say this or one of the others?  
If others, who? *Lambert*

(2) Who were the concerned workers?





Statement of Scott T. Mayrose dated 10/15/92

Page Three

F. Mr. Lambert told you that Lt. Ulrich called Security Officer Hunt "over to the radio" in the same room, no more than 20 feet away, with no reply and was "apparently" asleep. Lt. Ulrich "woke" Security Officer Hunt, awaited Post 8 to relieve.

(1) Was this Mr. Lambert's exact words, up to "Lt. Ulrich woke Security Officer Hunt". If not, what exactly did he say? *yes exact words.*

(2) What are your words in this statement? *His words*

(9) If Lt. Ulrich used the radio as you state, did you hear the transmission? Do you know any member of the Security Force who did? *no, no.*

(10) At the time of this incident (June 20, 1992), or at any time thereafter, were you informed by any member of the Security Organization or FPC employees that Security Officer Hunt was "sick", nauseous and groggy, vice sleeping while he was on duty at the Personnel Hatch?

(1) If so, by whom and when?

*Believe LT Phil Grantham over J. Hunt mentioned it during 6/20.*

(Note statements of Security Officers Keen, Cataldi, Hunt, Lt. Ulrich and Captain Craig.

(11) Have you during or subsequent to this incident discussed the allegations made in your statement with:

(1) Any supervisor or member of Burns or FPC management, *no*

(2) NRC, *no*

(3) Security Officer William Bond *not in this statement.*

(4) Security Officer Jeffery Hunt *He said he was sick when*

(5) Any other Security Officer. *no*

(12) Are you a "personal" friend of Mr. William Bond? *Just co. worker.*

(13) Other than hearsay, is it correct to assume that "you" or any other member of our Security Force "did not" personally observe Security Officer Hunt asleep?

*yes*



Statement of Scott T. Mayrose dated 10/15/92

Page Four

- (14) As a Nuclear Security Officer you know it is your job to protect the public from sabotage, etc., and to observe and report "ALL" security violations. If you believed an NRC violation occurred as you state; why did you wait four (4) months to report it to me? Why did you not report it to:

(1) Your Captain, as you did not indicate that he had any part in this incident? *Since it was here, felt supervision might make his job harder.*

(2) If you felt your Captain had knowledge, why not me or FPC or NRC as you are instructed to do?

*waited until he showed I was conducting an investigation and it*

- (15) Did Mr. William Bond at any time prior, during or subsequent to this incident, inform you that "HE" found Mr. Hunt asleep while on duty? *I think he said something about finding him asleep prior to this incident - not sure.*

- (16) Are You Aware of any personality problems between Security Officer Jeffery Hunt and Mr. Bond? *Don't care for each other.*

(a) Between Mr. Hunt and yourself? *No.*

(b) Between Lt. Ulrich and yourself? *Don't like his suggestion.*

(c) Between Lt. Ulrich and Mr. Bond? *He's on your back.*

(d) Between Lt. Ulrich and Mr. Hunt? *Don't care for each other.*

- (17) Are you aware of a statement allegedly made by Mr. Bond at a union meeting where he stated that "he would do anything he could to get these people fired" (referring to Captain Craig and Lt. Ulrich). *He said that when he was upset when he was off.*

- (18) Why do you believe Lt. Ulrich would jeopardize his career by covering up a sleeping Security Officer incident when as you say, FPC witnesses, etc., observed Mr. Hunt's post performance during his time in the Personnel Hatch?

*I only know what I have been told by FPC employees I didn't see anything or know of any reason why he (Lt. Ulrich) would cover up this incident.*

ATTACHMENT E

BURNS INTERNATIONAL SECURITY SERVICES

EAST REGION

CRYSTAL RIVER ENERGY COMPLEX

COMPANY RULES AND DISCIPLINE

DISCIPLINARY POLICY

UTILITIES EAST REGION

PURPOSE

To set forth the procedure for the application of established rules governing conduct, safety and health in the work environment and to ensure the effectiveness of the security services provided as established by safeguard regulations.

2. POLICY

It is the policy of the Utilities East Region to maintain and enforce a fair and consistent disciplinary policy. This policy also ensures employee awareness of expected performance standards and the corresponding consequences resulting from deficiencies in, or violations of, these standards.

3. PROCEDURE

The disciplinary policy and list of violations enumerated in this procedure are not intended to limit the reasons, or grounds for discharge, or modify Burns' policy of employment at will.

3.1 Dissemination of Rules Governing the Disciplinary Policy

The disciplinary policy will be posted on a bulletin board where all the guard force members can read it. At the discretion of the District Managers and/or individual site Project Managers, a copy of the policy may be distributed to each employee. A signed acknowledgment of receipt of the policy may be required and placed in each employee personnel file.

3.2 Notification and Documentation of Disciplinary Action

It is required that ALL disciplinary actions be documented. The affected employee will receive notification of disciplinary action.

3.2.1 Documentation of Violations - Categories A through E

All violations and penalties imposed for the violations must be recorded. The information should include as a minimum:

\* Type of violation.



- \* Date, time, and place of the violation.
- \* Individual's response to the violation (why did it happen and what steps he/she is going to take to prevent future violations of similar nature).
- \* A short synopsis of previous violations, if any.
- \* Penalty imposed.
- \* Project Manager's signature.

### 3.2.2 Disposition of Documentation

The Project Manager will provide a copy to the employee and keep the original in file. If a requirement exists to file a copy in the employees personnel file, he/she will do so accordingly.

## 3.3 Types of Disciplinary Action

In an effort to afford the employee every opportunity to improve and/or correct deficiencies the disciplinary policy has been divided into five (5) categories, each providing for progressively more severe penalties for continued violations.

### 3.3.1 Category A - Discharge/Termination

A disciplinary discharge is the most severe disciplinary action. It is considered rehabilitative, even though it severs the employment relationship. It should assist the employee to see the personal need for improvement in future outside employment. Normally, a progression of disciplinary measures is taken in an effort to rehabilitate an employee, however, in some cases, violation of the disciplinary policy may be so flagrant that discharge for the first offense is clearly warranted.

### 3.3.2 Category B - Suspension

A suspension, regardless of its duration, is a severe disciplinary action. Ordinarily, it is the final step in the disciplinary process prior to potential discharge. It should be accompanied by a warning to the employee that a further violation could result in termination. It is important that the term "could" and not "will" is stated

in the warning. The period of suspension is normally expressed in "calendar" days and should not exceed 30 days with the exception of indefinite suspension pending the disposition of criminal proceedings.

#### 3.3.3 Category C - Written Warning

A written warning is used to correct significant violations and repeated lesser offenses. The written warning should include a warning that any further offense "could" result in a more severe penalty.

#### 3.3.4 Category D - Formal Verbal Warning

The formal verbal warning is the least severe penalty of the formal corrective actions. The formal verbal warning is often adequate to effect the required correction or improvement, particularly when the employee has no or minimal history of violations. The formal verbal warning is clearly a remedial step used to motivate an employee to improve his performance.

#### 3.3.5 Category E - Informal Oral Warning

The informal oral warning is the least severe penalty in the disciplinary policy, generally used to correct minor infractions on the part of employees. Informal oral warning should state what the employee is doing wrong and what he/she should do to correct it. It should not be used in place of constructive criticism.

### 3.4 Definition of Certain Terms

#### 3.4.1 Abusive, Profane, Obscene Language

Constitutes violation when: The use of the referenced language demonstrates gross disrespect or insubordination to a supervisor, and/or causes disruptions in operations or among other employees. Similar conduct directed at co-employees or others, is also considered a violation where the conduct causes or tends to cause a disruption to the operation. The referenced language against a supervisor in private will not support as severe a penalty (i.e. number of days suspension) as same conduct before other employees, clients, or the general public.

#### 3.4.2 Authorized Relief

Authorized relief is defined as a fully eligible (appropriately equipped, i.e. sidearm, radio, etc. if required for post) relief, or a scheduled post closing or post termination.

#### 3.4.3 Carelessness/Negligence

Constitutes a violation when the employee's acts or omissions result in, or could reasonably be expected to result in, reduction in operational efficiency, violation of safeguards regulation, a hazardous condition, unnecessary expense (either monetary or equipment damage or loss), lost time, or the inability of other employees to do their job. Appropriate training and job experience should be considered when comparing the employee's performance with that of similarly positioned workers, in the course of determining the extent of carelessness and/or negligence.

#### 3.4.4 General Fitness for Duty

The use of any substance (alcohol, and/or drugs) regardless of whether the substance is "illegal" in common sense, which would have a significant negative effect on alertness of an individual during working hours, renders an employee unfit for duty. Employees reporting to work in such a physical condition are subject to remedial action since they would know, or should know that the substance would materially diminish his/her capabilities.

#### 3.4.6 Insubordination

Constitutes a violation when the employee understands the supervisor's directive and demonstrates willful disobedience or disregard, either by word or action, without reasonable, justification. Emphasis is placed on the fact that supervisors ensure that directives are so clear that no reasonable person could misunderstand them.

#### 3.4.7 Misconduct/Fighting

Constitutes a violation when: the employee demonstrates an unreasonable social behavior in his/her relationship with supervisors, coworkers, client personnel and the public.

The most common type of misconduct is fighting and/or the use of physical violence. Any physical contact with another person, in a violent manner, is generally grounds for severe discipline. The conduct of the employee must have been intentional and reasonably expected to result in causing injury to a person and/or damage to property.

#### 3.4.8 Six Month Period

For the purposes of the application of this procedure, a six month period is defined as six calendar months.

### 3.5 Selecting the Penalty

In selecting the severity of the penalty, the disciplinary policy's categories of offense should be consulted. It should be noted that violations in all categories render an employee subject to a certain penalty. A certain amount of flexibility is incorporated in the system, especially in Category B (where suspension could be anywhere from one to three days), to afford appropriate discipline in each case.

When an offense occurs which requires remedial and/or disciplinary action, and the appropriate category of the violation has been determined, the following factors should be considered prior to the final selection of the exact penalty:

- A. The nature and seriousness of the offense, its relation to employee's duties, position, and responsibilities, including whether the offense was committed maliciously or for gain, or was frequently repeated.
- B. The employee's past disciplinary record.
- C. The effect of the offense on the employee's ability to perform at a satisfactory level and its effect on the supervisor's confidence in the employee's ability to perform assigned duties.



- D. The employee's past work record, including performance, dependability and length of service.
- E. Consistency of the penalty with those imposed upon other employees for the same or similar penalty, in accordance with the offense categories.
- F. The notoriety of the offense and/or its impact upon the reputation of Burns and the Client.
- G. Was it clear to the employee that he/she was on notice and/or had been warned about the conduct in question?
- H. The potential for the employee's rehabilitation.
- I. Mitigating circumstances surrounding the offense, such as unusual job tensions, personality problems, harassment, bad faith, malice or provocation on the part of other involved in the matter.
- J. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Apply the answer to each factor, as it relates to the offense, and consider whether the response indicates one of the following:

- 1. Not applicable.
- 2. More severe penalty.
- 3. Less severe penalty.

There are no absolute applications, each incident must be individually judged on the circumstances of the occurrence.

### 3.6 Offense Categories

The disciplinary offense categories enumerated below are not intended to limit the reason or grounds for discharge, or modify Burns policy of employment at will. The offense categories are intended to serve as guidelines for the Project Managers and each case has to be decided on an individual basis taking into account the individual's record of employment and previous disciplinary problems.

3.6.1 Category A - Conduct Subject to Discharge

- 3.6.1.1 Failure to maintain acceptable attendance in accordance with the Site's attendance policy.
- 3.6.1.2 Failure to maintain eligibility requirements, i.e. annual requalifications and required certifications.
- 3.6.1.3 Willful destruction of Company property.
- 3.6.1.4 Violation of the Utilities Nuclear Security Division Drug Policy.
- 3.6.1.5 Failure to observe safety practices, when such ~~practices may result in serious injury, loss of life or major damage to property.~~
- 3.6.1.6 Intentional violation of security regulations resulting in:
  - A. Unauthorized release or compromise of safeguards information.
  - B. Unauthorized release or compromise of proprietary information.
  - C. Allowing unauthorized access or egress - to/from controlled areas.
- 3.6.1.7 Drinking, transferring or selling alcoholic beverages on duty or on Client property or reporting for duty under the influence of intoxicating substances.
- 3.6.1.8 Inattention to duty.
- 3.6.1.9 Gross negligence.
- 3.6.1.10 Theft

- 3.6.1.11 Soliciting or accepting a bribe in association with employment.
- 3.6.1.12 Making false or malicious, or unfounded statements against other employees, supervisors, officials, or subordinates with intent to destroy or damage reputations, authority or official standing.
- \* 3.6.1.13 Deliberate misrepresentation or omission; withholding facts in an investigation, refusal to testify or cooperate in an inquiry or other official proceedings.
- 3.6.1.14 Fighting, threatening or inflicting bodily harm.
- 3.6.1.15 Physical resistance to competent authority.
- 3.6.1.16 Indecent or immoral conduct, as defined by state statute.
- 3.6.1.17 Calling or participating in an illegal strike, work stoppage or slowdown.
- 3.6.1.18 Misconduct, off duty, of such major importance that it renders the employee unable to fulfill job responsibilities and/or of such significance that it has an adverse effect upon Burns International Security Services.
- 3.6.1.19 Compromise of examination or test materials through unauthorized possession, use, alternations or furnishing of same to others.
- 3.6.1.20 Unauthorized possession of a lethal weapon, (including firearms) while on duty, or on client property.
- 3.6.1.21 Seeking or maintaining employment with Burns for the purpose of industrial espionage or other than gainful employment.
- 3.6.1.22 Collusion (entering into a secret agreement for fraudulent or illegal purposes).

- 3.6.1.23 Insubordinate defiance of authority, refusal to comply with proper orders, wanton disregard of directives or insolence.
- 3.6.1.24 Abandonment or desertion of post without authorized relief.
- \* 3.6.1.25 Careless discharge of firearms on client's property.
- 3.6.1.26 Willful failure to return from an approved leave of absence on the first scheduled work day following the expiration of such leave.
- \* 3.6.1.27 Discrimination based on race, color, religion, sex, national origin, age or handicapped condition. Includes sexual harassment.

3.6.2 Category B - Conduct Subject to Suspension

- 3.6.2.1 Promoting or participating in the operation of gambling activities, on duty or on client property.
- 3.6.2.2 Rude, boisterous activity which adversely affects operations, discipline or morale; use of abusive or offensive language, quarreling or inciting to quarrel.
- 3.6.2.3 Unauthorized use and/or misuse of company or client property.
- 3.6.2.4 Careless or negligent work performance which may result in a breach of security regulations or requirements such as, but not limited to, a reportable or loggable event.
- 3.6.2.5 Possession of unauthorized materials as specified in individual site policies, while on duty.
- 3.6.2.6 Abuse or misuse of communications equipment while on duty.



- 3.6.2.7 Making racial or ethnic slurs, or disseminating literature containing such slurs.

3.6.3 Category C - Written Warning

- 3.6.3.1 Discourteous conduct, demonstrating lack of respect for others.
- 3.6.3.2 Posting, removing or altering notices, signs or writing in any form on company or client property without permission of management.
- 3.6.3.3 Delay or failure to carry out assigned work or instruction in a reasonable/specified period of time.
- 3.6.3.4 Unintentional loss of, or damage to company property, records or information.
- 3.6.3.5 Careless or negligent work performance when, while not resulting in a breach of security, has a diminishing effect on the effectiveness of operations.

3.6.4 Category D - Formal Verbal Warning

- 3.6.4.1 Repeated violation of appearance standards.
- 3.6.4.2 Repeated violation of creating and/or contributing to unsanitary personal and/or work environment conditions.
- 3.6.4.3 Repeated violation of exceeding specified break or lunch time period during tour of duty.
- 3.6.4.4 Loafing and/or loitering on duty.
- 3.6.4.5 Failure to leave the client premises in a timely manner upon completion of shift.

3.6.5 Category E - Informal Oral Warning

- 3.6.5.1 Violation of appearance standards.

- 3.6.5.2      Creating and/or contributing to unsanitary personal and/or work environment.
- 3.6.5.3      Exceeding specified break or lunch time period during tour of duty.
- 3.6.5.4      Being late for duty, training or any other appointed place of official activity.
- 3.6.5.5      Bickering among employees to the extent that it interrupts normal operations.

ATTACHMENT F

U.S. DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

-----X  
IN THE MATTER OF: :  
: :  
SCOTT T. MAYROSE, :  
: :  
Complainant, : Case No. 93-ERA-0037  
: :  
vs. : E. Earl Thomas  
: Administrative Law  
BURNS INTERNATIONAL : Judge  
SECURITY SERVICES, INC., :  
: :  
Respondent. :  
-----X

**CERTIFIED  
COPY**

DEPOSITION OF: JOHN C. CRAWFORD  
TAKEN: By Counsel for Complainant  
PLACE: Crystal River Site  
Administration Building  
One Power Line Road  
Crystal River, Florida  
DATE: July 8, 1993  
TIME: 4:37 p.m. to 5:06 p.m.  
REPORTED BY: Julie A. Fahrner  
Notary Public  
State of Florida at Large

---

WILKES REPORTING SERVICE, INC.  
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Tampa, Florida 33602  
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 Attorney for Florida Power  
 Corporation

ALSO PRESENT:

SCOTT T. MAYROSE

CLYDE A. WALKER  
 Project Manager Nuclear Security Force  
 Burns International Security Services

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<u>EXHIBITS</u>	
<u>NO.</u>	<u>DESCRIPTION</u>
	<u>PAGE</u>
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1           The deposition, upon oral examination, of  
2 JOHN C. CRAWFORD, taken on the 8th day of July,  
3 1993, at the Crystal River Site Administration  
4 Building, One Power Line Road, Crystal River,  
5 Florida, beginning at 4:37 p.m., before Julie A.  
6 Fahrner, Notary Public in and for the State of  
7 Florida at Large.

8           - - - - -

9           JOHN C. CRAWFORD,  
10 being first duly sworn to testify the truth, the  
11 whole truth, and nothing but the truth, was examined  
12 and testified as follows:

13                           EXAMINATION

14 BY MR. PUTNEY:

15           Q.       Mr. Crawford, would you state your full  
16 name for the record, please?

17           A.       John C. Crawford.

18           Q.       Your address?

19           A.       1360 North Dunkenfield Avenue, Crystal  
20 River, Florida.

21           Q.       Zip?

22           A.       Zip? 34429.

23           Q.       Your home phone number?

24           A.       Area code 904-563-2462.

25           Q.       What is your present position with

1 Florida Power?

2 A. I'm assistant fuel handler in the coal  
3 yard.

4 Q. Have you ever worked on the nuclear side?

5 A. Oh, yes.

6 Q. Were you working on the nuclear side in  
7 June of 1992?

8 A. June, 1992?

9 Q. Yes.

10 A. This is 1993. Yes.

11 Q. In what capacity?

12 A. I worked building services.

13 Q. What were your duties at that time?

14 A. Well, I did whatever they told me to do.

15 I was just -- I was a building service person,  
16 unless it was an outage. Was an outage in?

17 Q. Well, assuming the RB hatch was open,  
18 that would indicate an outage, I believe. Isn't  
19 that correct?

20 A. Then I was a supervisor. That's why I  
21 was trying to -- I was upgraded to a supervisor.

22 Q. Are you familiar with the RB hatch?

23 A. Oh, yes.

24 Q. What is the RB hatch?

25 A. The entrance to the RB.

1 Q. What is the RB?

2 A. The reactor building.

3 Q. Do you recall an incident in which a  
4 guard may have been either asleep or sick at his  
5 duty post at the RB hatch?

6 A. Yes.

7 Q. Would you describe your first knowledge  
8 of that incident?

9 A. I entered the RB hatch -- you don't have  
10 a diagram, do you?

11 Q. No.

12 A. And I went around to make a phone call.

13 Q. Was this in the evening in June of 1992?

14 A. I wouldn't know if it was day or evening,  
15 to be honest with you. I was working 13 hours a  
16 day. I was there.

17 Q. What did you observe?

18 A. I didn't observe anything. I was making  
19 a phone call, and then there was some guards. They  
20 came into the hatch area and somebody -- this is  
21 hearsay now -- somebody said, somebody was sleeping  
22 or they were sick or something like that. It's been  
23 too long to know what it was. But there was a  
24 lieutenant there that was handling the situation,  
25 and I wasn't involved in it.

1 Q. But you were in the area and you heard  
2 conversations that involved someone sleeping or  
3 being sick on post, another guard?

4 A. To be honest with you, the thing I heard  
5 was a guard was being relieved of duty.

6 Q. Do you know how many guards came in at  
7 the time the guard was relieved of duty?

8 MR. WALKER: I can't hear you again.

9 MR. PUTNEY: Do you want to read it real  
10 loud?

11 MR. WALKER: You've just got a speak up a  
12 little bit. I can hear him fine, I just can't  
13 hear you.

14 (Record read back.)

15 THE WITNESS: I don't.

16 BY MR. PUTNEY:

17 Q. One of the guards -- that was a  
18 lieutenant?

19 A. I assume. I thought so.

20 Q. Why did you assume or think that?

21 A. Somebody came in there that was in charge  
22 or something, I would assume.

23 Q. What made you assume that person was in  
24 charge? What did you hear?

25 A. Somebody was getting relieved of duty and

1 I was still on the phone, and I had people that  
2 worked for me coming up and telling me about it.

3 Q. What were they telling you?

4 A. A guard was getting -- a guard was being  
5 escorted out.

6 Q. As part of those conversations, were you  
7 told that he was asleep?

8 A. I heard about 10 different things at that  
9 time. I was -- I heard asleep, sick. I heard that  
10 he reported himself ill, from somebody else, and  
11 they came to get him. I heard everything.

12 Q. This is when these various people were  
13 coming up to you, you were hearing different  
14 versions?

15 A. Yeah, even from people that came in that  
16 weren't there.

17 Q. There was a rumor mill going on about  
18 some event that happened --

19 A. Exactly.

20 Q. -- with the guard, and one of the things  
21 that you heard was that he was asleep?

22 A. I did hear that.

23 Q. Who were the people that were coming up  
24 to you and relating these different versions of why  
25 this guard was being relieved of his post?



1           A.     Let me think. The only -- one name I can  
2 remember is Nedrow. He worked in building service.

3           Q.     Do you remember which version Nedrow told  
4 you at the time?

5           A.     A guard is being escorted out.

6           Q.     And by version, I mean the reason for his  
7 being escorted out.

8           A.     No.

9           Q.     Now, how many people came up to you and  
10 told you about this guard on that evening?

11          A.     To be honest with you, it didn't mean  
12 that much to me. At the time I was contacting  
13 people on the phone inside the RB about specific  
14 things about the job I was doing. And I wasn't  
15 trying to pay attention to what was going on in the  
16 background. I don't know how many -- I can't really  
17 -- you know, to be honest, I can't tell you, a  
18 couple people at least.

19          Q.     One of those was Nedrow?

20          A.     Yep.

21          Q.     Now, did you also talk to people about  
22 what you had heard happened?

23          A.     I probably did.

24          Q.     Do you recall all the people you talked  
25 to that night about what you had heard about this

1 story?

2 A. No, just right in that area. That was --  
3 I didn't go around and -- I was the supervisor at  
4 that time and I was doing duties. I wasn't -- I  
5 didn't run around the plant saying a guard was  
6 escorted out or anything like that.

7 Q. I understand. But you say you did talk  
8 to a couple people and related what you heard about  
9 the guard. Is that right?

10 A. Well, it would be the people that was  
11 telling me something I would relate back to. You  
12 know, "What happened. Did you see all the guards  
13 come in here? I said, I saw some of them." But  
14 before I got off the phone, it was over with,  
15 whatever it was.

16 Q. Do you recall everyone that you talked to  
17 that night about this incident?

18 A. Nope.

19 Q. Can you say that you didn't talk to any  
20 specific person about the incident that night?

21 A. Yeah, I can say that, I guess.

22 Q. Well, you don't recall how many people  
23 you talked to?

24 A. (Witness shakes head.)

25 Q. We've got a list. Let me show you this?

1 MR. GADDY: How does this matter? I mean  
2 my objection is relevancy for sure, but I just  
3 don't understand maybe.

4 MR. PUTNEY: Do you want to go off the  
5 record?

6 MR. GADDY: Sure, if we can.

7 (Off the record.)

8 BY MR. PUTNEY:

9 Q. Let me show you this list which is marked  
10 as Exhibit Number 12. Would you tell me if you  
11 recognize the names of some of these people as  
12 having been around the hatch that night?

13 A. No, 'cause I don't know who was there.  
14 I'm going to be honest with you. The only person I  
15 can remember in my mind was Nedrow because he  
16 personally came up to me and said, you know, this is  
17 happening. Really, you don't know how many people  
18 go through that RB, that entrance there.

19 Q. There were a lot of people going in and  
20 out at the time this was happening?

21 A. I don't know that even.

22 Q. You can't say if there were or there  
23 weren't?

24 A. It was during an outage, and probably you  
25 have 3 or 400 people that go through that hatch area

1 in a shift.

2 Q. So, for instance, there's a name on this  
3 list of -- do you recognize any of the names on that  
4 list that are highlighted?

5 A. Mine, for one, Ted Linne. He was working  
6 for me.

7 Q. Do you know Ted Linne then?

8 A. He was working for me. I was his  
9 supervisor.

10 Q. Can you say whether or not you had a  
11 conversation with him that night about the  
12 allegations of the security officer being removed  
13 from his post?

14 A. He might have been on the other end of  
15 the phone conversation. He should have been in the  
16 RB when I made the phone call.

17 Q. Is your answer you can't say one way or  
18 the other?

19 A. I probably -- I couldn't say if that was  
20 a subject, you know, if I talked to him about it or  
21 not.

22 Q. How about the other people on that list  
23 that are highlighted?

24 A. Williamson worked for me also.

25 Q. Do you know if you talked about it with

1 him?

2 A. That's Kenny. That is R.J. That may be  
3 a different one. I mean, I can recognize these  
4 names, but I would say I probably didn't.

5 Q. Can you say that for a fact?

6 A. No.

7 Q. Can you say for a fact that you had no  
8 conversation with Mr. Mayrose that night regarding  
9 the officer being relieved from his duty post?

10 A. I couldn't.

11 Q. You understand that Mr. Mayrose is this  
12 gentleman right here?

13 A. Yes. If he was in the RB, there was a  
14 lot of guards in there at that time. He might have  
15 come up and spoke to me. I don't know.

16 Q. But you were in ear shot of the incidents  
17 as the guard was being removed?

18 A. I was as close as that gentleman right  
19 here.

20 Q. You've indicated the distance of about 15  
21 feet?

22 A. Or closer.

23 Q. But you were not in direct eye shot; you  
24 were around a corner. Is that right?

25 A. Right.



1 Q. Did you hear any radio conversation going  
2 on, with the guards using their radios at the time?

3 A. I was on the phone. I didn't -- there's  
4 always -- first of all, there's a lot of commotion  
5 there at all times. It's not a quiet place. That  
6 area is not quiet. So I'm trying to talk on the  
7 phone and you've got noise, so I couldn't hear. You  
8 know, I didn't hear anything really.

9 Q. You say you didn't hear anything. You  
10 talked about -- at the very beginning you did hear  
11 the conversation about the guard being removed from  
12 his post.

13 A. I was told by Nedrow.

14 Q. You heard the commotion of it happening.  
15 Is that correct?

16 A. No.

17 Q. How did you know something was going on?

18 A. Nedrow told me. I was on the phone. I  
19 turned around and I saw there was more than two or  
20 three guards in there, I think. You're talking a  
21 year ago and it wasn't -- it wasn't a big deal to me  
22 at that point.

23 Q. How many guards are usually there?

24 A. In the hatch area?

25 Q. Yes.

1           A.       There's one stationed there and there's a  
2 robing lieutenant in the -- on the hot side, and  
3 there's guards that robe on the hot side. There's  
4 more on the hot side than anywhere else. You could  
5 get five or six there real fast.

6           Q.       The number of guards you saw there were  
7 not normally stationed there. Is that correct?

8           A.       One is stationed there. Wait a minute, I  
9 shouldn't -- I don't know how many are stationed  
10 there. I think one is stationed there.

11           MR. WALKER: You're right.

12           A.       They could station two there for an  
13 emergency or, if a gate doesn't work, they could  
14 have three.

15           Q.       Were you asked about the incident later  
16 -- several months later?

17           A.       Yes.

18           Q.       How many months had passed the first time  
19 that you were personally asked about this incident?

20           A.       I couldn't tell you.

21           Q.       Who was the first person that asked you  
22 about it?

23           A.       I was asked several times, and I can't  
24 even remember their names. I know the gentleman  
25 outside was out here. He talked to me.

1 Q. If you would assume his name is  
2 Longhouser, when did you talk to him?

3 MR. GADDY: That depends on which  
4 gentleman.

5 THE WITNESS: The one that just left.

6 MR. GADDY: That's Longhouser.

7 Q. If you would assume his name is  
8 Longhouser, do you remember when you talked to him?

9 A. No.

10 Q. Did you talk to anyone about the incident  
11 before you talked to Mr. Longhouser?

12 A. No. Maybe I did. Well, wait a minute. I  
13 talked to two or three people, so I don't know.

14 Q. Did you ever give any written statement  
15 of any kind?

16 A. No.

17 Q. Well, did they take notes of any of your  
18 conversations, do you know?

19 A. I don't know. They might have.

20 Q. Well, do you think it was around November  
21 that you talked with Mr. Longhouser?

22 THE WITNESS: Is Mr. Longhouser the one  
23 with the gray hair?

24 MR. GADDY: Yes.

25 A. He was the first one I talked to.

1 Q. You think that was around November of  
2 1992?

3 A. I don't know. I mean, I talked to him,  
4 but I don't know.

5 Q. But in any event, it was several months  
6 after the incident?

7 MR. GADDY: The witness said he didn't  
8 know.

9 A. I don't know.

10 Q. Did you talk to anyone about the incident  
11 the next day?

12 A. No, probably not.

13 Q. When was the first recollection you have  
14 of talking to anyone about the incident after that  
15 night -- your conversation with Mr. Longhouser?

16 A. Well, the only -- I've talked to  
17 employees that I've worked with saying I've been  
18 called in about a situation, and I don't know  
19 nothing about it. And that's exactly what it  
20 amounts to.

21 Q. Excuse me just a minute. Do you recall  
22 having a conversation with a security guard named  
23 Bond about the incident?

24 A. No.

25 Q. You said you did talk with some security

1 guards, though?

2 A. Well, after an incident happens, most of  
3 the security guards would be talking to everybody,  
4 saying gee, I wonder what happened, or something  
5 like that. So I probably could have talked that  
6 night to everyone that was on duty if I walked by  
7 them or something, but I wouldn't have known what we  
8 would have even said.

9 Q. Do you know the guards by name?

10 A. (Witness shakes head.)

11 Q. Do you know the guard named Bond?

12 A. I know him, but I didn't know him by  
13 name. I would probably know Bond if I looked at  
14 him.

15 Q. You just pointed to Mr. Mayrose?

16 A. Right.

17 Q. I asked you before about talking to Mr.  
18 Bond. You don't know if you talked to Mr. Bond  
19 because you don't know him by name. Is that right?

20 A. Right.

21 Q. If I ask you the question if you know  
22 security guard William Bond, what would your answer  
23 to that be?

24 A. I don't know him.

25 Q. Did you ever see any report that was



1 prepared by anyone based on talking to you about the  
2 Hunt incident?

3 A. No.

4 MR. PUTNEY: Mr. Crawford, I need to give  
5 you this subpoena for the trial in this case.  
6 Let me date it. There you go.

7 MR. GADDY: Any questions?

8 MR. LEVITT: Yes.

9 MR. PUTNEY: I have no further questions  
10 at this time.

11 EXAMINATION

12 BY MR. LEVITT:

13 Q. Mr. Crawford, my name is Mark Levitt. I  
14 represent Burns Security. I just have a few  
15 questions for you, sir.

16 You indicated you know Mr. Mayrose. Do  
17 you just know him by sight, or did you know him by  
18 name at that time?

19 A. Sight.

20 Q. Did you ever have any occasion prior to  
21 that time to talk with him, to your knowledge?

22 A. I probably have talked to him.

23 Q. Just in passing?

24 A. Yep.

25 Q. The people who were coming up to you when

1 you were on the phone about the officer being  
2 relieved of duty, were those other Florida Power  
3 employees?

4 A. They were probably temporaries. It was  
5 during an outage. Nedrow is a temporary or he was.  
6 I don't know if he's here or not. I don't know.  
7 There wasn't that much said at that time.

8 Q. Did any of the guards or security  
9 personnel that came to relieve that officer talk to  
10 you or ask you any questions at that time?

11 A. I don't know.

12 Q. After work that day, did you talk to  
13 anyone about that incident until Mr. Longhouser  
14 sometime later?

15 A. After work, probably not.

16 Q. I guess what I'm trying to understand is  
17 this something that was talked about for weeks after  
18 it happened, or it happened and it was discussed at  
19 the time and then it was just forgotten at the time?

20 A. Probably at the time.

21 Q. Do you recall discussing it with anyone  
22 away from the hatch area?

23 A. I could have.

24 Q. Do you recall whether or not you talked  
25 to any guards that day about the incident?

1           A.     I probably did.

2           Q.     Do you know who, where, or when?

3           A.     Nope.

4           Q.     Did you, at any time -- I think you've  
5 answered this, but did you, at any time, see the  
6 officer asleep yourself?

7           A.     No.

8           Q.     Did you have any personal knowledge  
9 whether the officer was asleep or was sick or why he  
10 was being relieved of duty?

11          A.     No.

12          Q.     Did you, at any time, tell anyone that  
13 you saw an officer asleep?

14          A.     No.

15          Q.     Did you, at any time, tell anyone that an  
16 officer was relieved of duty because he was asleep?

17          A.     No.

18          Q.     So, someone might have mentioned that to  
19 you. You said that was one of maybe 10 things that  
20 people were saying -- is that right -- that the  
21 officer was asleep?

22          A.     It's been a long time. The only thing I  
23 know is if I asked a guard something, I said, well,  
24 is he in trouble? Was he sick or ill, or something  
25 like that; just a concern. That would be it.

1 Q. Did you ever tell anyone, a guard or  
2 otherwise, that you saw a guard relieved of duty  
3 because he was sleeping?

4 A. No.

5 Q. So these conversations that might have  
6 occurred with a guard, were they more on the line of  
7 asking questions or saying that someone was relieved  
8 of duty?

9 A. Right.

10 Q. Did you have any reason to tell anyone  
11 that the guard was relieved because he was asleep?

12 A. No.

13 Q. Would you have told anyone that night or  
14 any other time that the guard was asleep and that's  
15 why he was relieved of duty?

16 A. No.

17 MR. PUTNEY: Object. "Would you have"  
18 implies some conditions. It is ambiguous.

19 Q. Let me ask it more direct. Did you, at  
20 any time, to the best of your knowledge, tell anyone  
21 that that guard was relieved of duty because he was  
22 asleep?

23 A. Not to the best of my knowledge.

24 Q. In fact, you never saw him asleep.  
25 Correct?

1           A.     I never --

2           MR. GADDY:  Objection.  It's been asked  
3           and answered four or five times already.

4           Q.     Do you remember when you talked to Mr.  
5           Longhouser, the gentleman with the white hair that  
6           just left, did you, in essence, tell him the same  
7           thing you've just told us here?

8           A.     Yes.

9           Q.     Did he ask you about if you had observed  
10          the officer sleeping?

11          A.     Yes.

12          Q.     Did you tell him you did not?

13          A.     Yes.

14          MR. LEVITT:  Nothing further.

15          MR. PUTNEY:  I have just a follow-up.

16                               EXAMINATION

17          BY MR. PUTNEY:

18          Q.     You said "to the best of my knowledge I  
19          didn't tell someone the guard was asleep."  Is it  
20          possible that you passed that information along that  
21          you had heard that the guard was asleep and that's  
22          why he was taken off his post?  Is that possible?

23          A.     It's possible, because there were --  
24          you've got a couple -- about a thousand people  
25          there, and when you hear somebody is relieved of



1       st, somebody says, was he sleeping or was he --  
2       happened. And if I said anything, I didn't  
3       know nothing, you know. If somebody said something,  
4       I said, I heard this, heard that.

5           Q.       One of things you heard was that he was  
6       asleep?

7           A.       I did. I said that when I first started  
8       -- came here, yes.

9           MR. PUTNEY: No further questions.

10          MR. LEVITT: Nothing further.

11          MR. GADDY: Okay. Thank you for waiting  
12       so long. I'm sorry for the delay.

13          THE WITNESS: No problem.

14                 (The deposition was adjourned at 5:06  
15       p.m.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA                    )  
  ) SS.  
COUNTY OF HILLSBOROUGH)

I, Julie A. Fahrner, Notary Public in and for the State of Florida at Large, do hereby certify that I reported in machine shorthand the foregoing proceedings at the time and place therein designated; that my shorthand notes were thereafter reduced to typewriting under my supervision; and that the foregoing pages are a true and correct, verbatim record of the aforesaid proceedings.

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

WITNESS my hand and seal July 12, 1993,  
in the City of Tampa, County of Hillsborough, State of Florida.

 JULIE A. FAHRNER  
1-23-95

  
Notary Public  
State of Florida at Large  
My commission expires:  
10/21/95

ATTACHMENT G

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REPLY TO Tampa

August 17, 1993

Mr. Guy D. Thomas  
Burns International Security Services  
387 Shuman Blvd. - Suite 120W  
Naperville, Illinois 60563-8451

Re: Mayrose Claim Under the Energy  
Reorganization Act  
Our File No. 2(T)

Dear Guy:

The purpose of this letter is to provide you with certain information which I ascertained during my investigation into the Mayrose discharge and the preparation of the Company's defense as to this matter.

As you are well aware, one of the basis for Mr. Mayrose's termination was his false claim that an employee named D. Lambert specifically advised him that a guard was sleeping on the job. As I understand the facts, Mr. Mayrose was given ample opportunity by the Company to explain the nature of his conversations with Mr. Lambert, but Mayrose continued to insist that Mr. Lambert (and another employee John Crawford) specifically told him that a guard was sleeping on the job.

I contacted Mr. Lambert by telephone and questioned him about any conversations he may have had with Mr. Mayrose regarding a security guard sleeping on the job. Mr. Lambert advised me that he, at no time, ever advised Officer Mayrose that another security guard was asleep on the job. Based on that statement by Mr. Lambert, the evidence certainly appears to support the Company's position that Officer Mayrose lied and/or misrepresented the information relating to this matter.<sup>1</sup> Although there was no deposition taken of Mr. Lambert, a

<sup>1</sup>Of course, since the parties resolved the matter without the need to proceed to a hearing, we do not have a transcript of the testimony of Mr. Lambert.

Mr. Guy D. Thomas  
August 19, 1993

deposition was taken of John Crawford. Obviously, his testimony is self-explanatory and we have enclosed a copy of a transcript of his deposition.

Should you desire any further information please feel free to give me a call.

Sincerely,



Mark E. Levitt

MEL/mm