

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

John Maas

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IA 96-100

CONFIRMATORY ORDER PROHIBITING INVOLVEMENT IN
NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. John Maas was employed as President of National Circuits Caribe, Inc. (NCCI) in Fajardo, Puerto Rico, in 1991. NCCI possessed and used radioactive materials at its Fajardo, Puerto Rico facility under the authority of a general license issued by the Nuclear Regulatory Commission (NRC) pursuant to 10 CFR 31.5. The general license authorized the licensee to use byproduct material contained in devices designed and manufactured for the purpose of gauging or controlling thickness of materials during industrial processes. NCCI filed for bankruptcy under Chapter 11 in Puerto Rico in March 1991 but the case was dismissed in October 1991 due to lack of response from the company. The Fajardo facility was abandoned sometime around October 1991.

II

On June 23, 1993, the NRC was notified by the Commonwealth of Puerto Rico's Bureau of Radiological Health (Bureau) of the discovery of radioactive sources and a quantity of hazardous chemicals on property leased from the Puerto Rico Industrial Development Corporation (PRIDCO) by NCCI. Bureau personnel indicated that the abandoned sources had been found in an abandoned building by PRIDCO personnel.

The NRC, Region II, staff performed an inspection of the site on June 30, 1993, and determined there were five sources containing microcurie amounts of Thallium-204 or Promethium-147. The sources were in backscatter gauges that were authorized for use by NCCI under an NRC general license, specified in 10 CFR 31.5. The staff determined that the source/gauges had been abandoned at the site since October 1991. NRC and PRIDCO oversaw the disposal of the gauges, which was completed in September 1994.

The NRC Office of Investigations (OI) conducted an investigation, documented in OI Report No. 2-93-044 dated January 31, 1996, to determine whether NCCI had deliberately abandoned licensed material at the plant site. Based on the evidence developed and reviewed, OI determined that during approximately October 1991, the five generally licensed backscatter gauges were deliberately abandoned by the licensee, with the knowledge of the President of the company, Mr. Maas.

Mr. Maas, the former President of NCCI, was prosecuted by the Department of Justice and on December 5, 1995, pled guilty to the charges of 1) willfully and knowingly storing or causing to be stored hazardous wastes for longer than ninety days without having first obtained a permit or interim status for said storage, in violation of Title 42, United States Code, Section 6928(d)(2)(a) and 2) willfully and knowingly abandoning devices containing byproduct radioactive materials, in violation of Section 223 of the Atomic Energy Act of 1954, as amended, Title 42, United States Code, Section 2273 and 10 CFR 31.5(c)(6). On August 8, 1996, Mr. Maas was sentenced to probation and required to perform community service.

III

The Commission's regulation in 10 CFR 30.10 requires, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission. Based on the facts set forth above, the staff concluded that Mr. Maas engaged in deliberate misconduct that caused the licensee to abandon devices containing byproduct material in violation of 10 CFR 31.5(c)(6). As President of NCCI, Mr. Maas was responsible for ensuring that NCCI conducted activities in accordance with NRC requirements. The NRC must be able to rely on licensees and their officials and employees to comply with NRC requirements. Mr. Maas' actions in causing NCCI to violate 10 CFR 31.5 have raised serious doubts as to whether he can be relied on to comply with NRC requirements.

The NRC staff sent a letter dated October 10, 1996, to Mr. P. M. Sandler, Mr. Maas' attorney, containing the proposed terms of this Order which are set out in Section IV of this Order. The proposed terms are that Mr. Maas be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order, and is required to notify the NRC of his first involvement in NRC-licensed activities during the five years following the prohibition period. The NRC staff requested Mr. Sandler to review the proposed items with Mr. Maas and, if Mr. Maas agreed to the proposed terms of this Order, have him indicate his agreement with those terms by signing an enclosed acknowledgement. By letter dated October 22, 1996, Mr. Sandler transmitted the acknowledgement of the proposed provisions of the Order which had been signed by Mr. Maas. In the acknowledgement, Mr. Maas

indicated that he understood the proposed provisions, committed to complying with them, and consented to the issuance of an Order confirming these provisions. In the acknowledgment, Mr. Maas also waived his right to have a hearing on such an Order.

I find that Mr. Maas' commitments as set forth in the letter of October 22, 1996, are acceptable and necessary and conclude that with these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Maas' commitments in the October 22, 1996 letter be confirmed by this Order. As stated above, Mr. Maas has agreed to this action. Pursuant to 10 CFR 2.202, I have also determined, based on Mr. Maas' consent and on the significance of the conduct described above, that public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. For a period of five years from the date of this Confirmatory Order, Mr. Maas is prohibited from engaging in or exercising control over individuals engaged in NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or

general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This prohibition includes, but is not limited to: (1) using licensed materials or conducting licensed activities in any capacity within the jurisdiction of the NRC; and (2) supervising or directing any licensed activities conducted within the jurisdiction of the NRC.

2. At least five days prior to the first time that Mr. Maas engages in, or exercises control over, NRC-licensed activities within a period of five years following the five-year prohibition in Section IV.1 above, he shall notify the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the NRC or Agreement State licensee and the location where the licensed activities will be performed. The notice shall be accompanied by a statement, under oath or affirmation, that Mr. Maas understands NRC requirements, that he is committed to compliance with NRC requirements, and that provides a basis as to why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Regional Administrator, Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Maas of good cause.

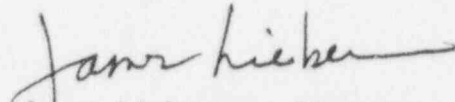
In accordance with 10 CFR 2.202, any person adversely affected by this Confirmatory Order, other than Mr. Maas, may submit an answer to this Order, and may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The request for a hearing shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which any other person adversely affected relies and the reasons as to why the Confirmatory Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323 and to Mr. Maas. If a person other than Mr. Maas requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any

hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION


James Lieberman, Director
Office of Enforcement

Dated at Rockville, Maryland
this 12th day of December 1996

Mr. John Maas

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Mr. John Maas

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