

AFFIDAVIT

STATE OF MARYLAND)
)
COUNTY OF MONTGOMERY)

to wit:

I hereby certify that on this ^{24th} day of **JUNE**, 1985, before me, the
subscriber, a notary public, personally appeared Edward C. Shomaker and made
oath in due form of law that to the best of his knowledge, information and
belief:

1. He is a Senior Attorney with the Operations and Administration Division
of the Office of the Executive Legal Director, U.S. Nuclear Regulatory
Commission, Washington, D.C. 20555.
2. His chief areas of responsibility are the various access and information
laws and regulations with which the NRC must comply. Most of his work hours
are spent on matters involving the proper protection and treatment of
Proprietary Information.
3. In that capacity he met in his office on May 5, 1983, with Messrs. E.G.
Arndt from the Office of Nuclear Regulatory Research, NRC, and Dr. Z.
Reytblatt. Dr. Reytblatt had submitted a package of documents to the NRC on
April 7, 1983. That package contained documents that were both copyrighted
and submitted with severe use restrictions. Of particular importance was
the restriction that "no reviewing shall be done by outside organizations

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or individuals without prior notification." The objective of the meeting was to explain to Dr. Reytlatt the NRC's procedures for receiving and protecting proprietary information and to have Dr. Reytlatt either follow agency procedures as described in 10 CFR 2.790 for the submittal of information claimed to be Proprietary or for the NRC to return his submittal.

4. At the meeting he and Mr. Arndt explained to Dr. Reytlatt tha the NRC's designated contractor in the area of Leak Rate Analysis Testing was Oak Ridge National Laboratory (ORNL) and that normal procedure for the NRC would be to send Dr. Reytlatt's submittal to NRC's contractor for evaluation. It should be pointed out here that the only portion of Dr. Reytlatt's April 7th submittal that he is discussing in this Affidavit is a document claimed to be proprietary and entitled "Containment Leak Rate Testing Requirements." It should be noted that Dr. Reytlatt's paper is substantially different from the ANSI/ANS-56.8-1981 Standard which bears the same title. Another Report entitled Critique of "Containment System Leakage Test Requirements" was submitted on April 7, 1983 by Dr. Reytlatt but he removed his proprietary designation for that document at our May 5th meeting.

5. Dr. Reytlatt expressed an interest in the NRC's procedures at 10 CFR 2.790 and he gave Dr. Reytlatt a copy of that regulation and copies of withholding claims that had been submitted by other owners of proprietary information. It was agreed that Dr. Reytlatt would soon make his own proprietary claim following 2.790 and that the NRC would not send Dr. Reytlatt's document to NRC's designated contractor until NRC received the withholding claim and Dr. Reytlatt's specific permission to send the report in question to NRC's designated contractor.

6. Dr. Reytlatt formally applied for proprietary treatment for his "Containment System Leakage Testing Requirements" document in a letter to Mr. E.G. Arndt dated May 23, 1983. That letter specifically stated that "this material is for your internal use and/or use of designated contractors and may be used only for the purpose of evaluation as stated in my letter of April 7, 1983."

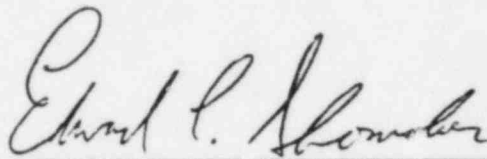
7. Dr. Reytlatt did mention at the meeting on May 5, 1983, that he was having a dispute with ORNL over two pages that he had withheld from a Critique of ANSI/ANA-56.8-1981 that he was writing for ORNL (same document mentioned in paragraph 4 above). To the best of affiant's knowledge and belief that dispute had nothing to do with nor did it deter Dr. Reytlatt from asking that the NRC go forward with the evaluation of his "Testing Requirements" paper which was submitted on April 7, 1983.

8. Affiant does not recall any detailed discussion of the type set out in Dr. Reytlatt's April 16, 1985 Affidavit at paragraphs 5-9. The dispute over the Critique was never discussed in relation to the proprietary "Testing Requirements" paper. Dr. Reytlatt did state that the two pages withheld from ORNL constituted more work than he believed he was required to provide ORNL for the money they were paying him. Mr. Arndt and affiant did wish Dr. Reytlatt luck in his further discussions.

9. He did generically discuss how the NRC uses contractors to review data and how sometimes there are conflicts of interest between submitters and

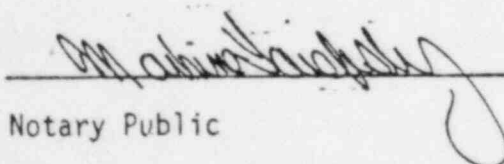
reviewing contractors. He does not remember Dr. Reytblatt making any statements about either ORNL or Sargent & Lundy as Dr. Reytblatt claims in paragraph 11 of his April 16, 1985 Affidavit.

10. Mr. Arndt did make a matrix for document use and distribution after our meeting in which he indicated agreement that the Critique could be placed in the Public Document Room and that the proprietary "Testing Requirements" report could not be so placed. That matrix also showed that the proprietary "Testing Requirements" report could be sent to ORNL. As explained above, affiant believes that that matrix is accurate if one adds that the sending to ORNL was conditioned upon Dr. Reytblatt formally making a 10 CFR 2.790 claim and stating in writing that we could have our designated contractor evaluate the proprietary "Testing Requirements" report. As mentioned above, Dr. Reytblatt did those two items in his letter of May 23, 1983.



Edward C. Shomaker

SUBSCRIBED and sworn to before me on the
day and year first above written.


Notary Public

My commission expires: 7/1/86

