

**United States
Nuclear Regulatory Commission**



Report of Investigation

Stokley Enterprises/Spectronics:

Possible Counterfeit Relays Supplied by Vendor

Office of Investigations

Reported by OI: RII

B/74

Title: STOKLEY ENTERPRISES/SPECTRONICS:

POSSIBLE COUNTERFEIT RELAYS SUPPLIED BY VENDOR

Vendor:

Spectronics, Inc.
1201 Montlimar Drive #650
Mobile, Alabama 36609-1718

Stokley Enterprises, Inc.
880 Avenue J
Norfolk, Virginia 23518

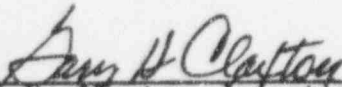
Case Number: 2-90-014

Report Date: March 8, 1991

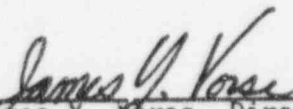
Control Office: OI:RII

Status: CLOSED

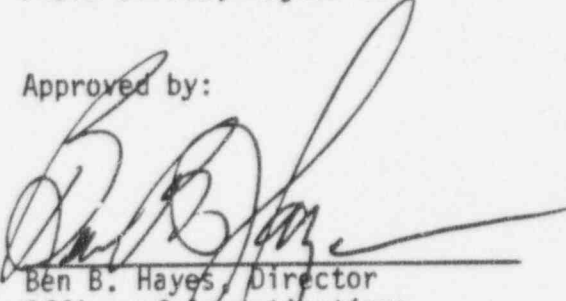
Reported by:


Gary H. Claxton, Investigator
Office of Investigations
Field Office, Region II

Reviewed by:


James Y. Vorse, Director
Office of Investigations
Field Office, Region II

Approved by:


Ben B. Hayes, Director
Office of Investigations

Participating Personnel:

E. L. Williamson, Sr. Investigator, OI:RII
Craig T. Tate, Investigator, OI:RII
Kamalakar R. Naidu, Sr. Reactor Engineer, NRR/RVIB

WARNING

The attached document/report has not been reviewed pursuant to 10 CFR § 2.790(a) exemptions nor has any exempt material been deleted. Do not disseminate or discuss its contents outside NRC. Treat as "OFFICIAL USE ONLY."

Copy 9 of 9

SYNOPSIS

On June 26, 1990, the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Reactor Regulation (NRR), requested that the Office of Investigations investigate allegations of counterfeit or refurbished electric relays being sold to nuclear plants.

Subsequent investigation revealed that Spectronics, Inc., an electronics distributor in Mobile, Alabama, caused 22 relays to be drop shipped from Stokley Enterprises, Inc., to the Shearon Harris Nuclear Plant, New Hill, North Carolina. Initial inspection by NRC personnel and subsequent examination by the manufacturer revealed the relays were not new but were refurbished from old relays. Investigation was conducted at Spectronics in an effort to determine the scope of distribution of the refurbished relays. As a result, business records were obtained which revealed possible fraudulent sales to other nuclear customers as well as military contractors.

Investigation further revealed that Spectronics shipped 30 relays to another vendor which, in turn, shipped 28 of the relays to Watts Bar Nuclear Plant (WBNP), Spring City, Tennessee. Four of the 28 relays shipped to WBNP were found to be altered and bearing identification labels produced by an unauthorized manufacturer.

It was further learned that Spectronics shipped three relays, in October 1989, to the Sequoyah Nuclear Plant (SNP), Soddy-Daisy, Tennessee. Examination revealed the relays were not new as required by the contract but were refurbished. It was learned that Spectronics obtained the relays from The Martin Company, Inc., a company in Norfolk, Virginia, which deals primarily in surplus electronic components purchased from the U.S. Navy.

In each of the three cases, the vice president of Spectronics, Inc., took the customer's orders by interstate telephone call. Investigation revealed that in each case, the customers were supplied with refurbished relays and later received invoices for payment from Spectronics. The two surplus dealers who supplied the relays to Spectronics said the vice president knew he was purchasing refurbished surplus relays.

Information provided by the NRR Vendor Inspection Branch (VIB) revealed there were no NRC regulatory violations regarding the sale of refurbished relays since they were purchased as commercial grade. Corporate counsel for Potter and Brumfield (P&B) stated the labels which were attached to the relays, although unauthorized, were not protected by patent and, therefore, P&B could not claim protection under applicable criminal statutes. However, during the course of this investigation, substantial evidence of violations of other Federal statutes was discovered, some of which were within the jurisdiction of the U.S. Navy. Appropriate information was provided to the Naval Investigative Service and representatives from the U.S. Attorney's Office, Eastern District of Virginia, Norfolk, Virginia.

ACCOUNTABILITY

The following portions of this Report of Investigation (Case No. 2-90-014) will not be included in the material placed in the Public Document Room. They consist of pages 3 through 20.

TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS.	1
ACCOUNTABILITY.	3
APPLICABLE REGULATIONS.	7
LIST OF INTERVIEWEES.	9
DETAILS OF INVESTIGATION.	11
Purpose of Investigation	11
Background	11
Investigative Activity	11
Coordination with NRC Staff.	12
Allegation No. 1 (Use of interstate wire transmission (telephone) for fraudulently obtaining money).	12
Summary.	12
Evidence	13
Conclusions.	14
Allegation No. 2 (Use of U.S. Mail to obtain money by fraudulent means).	14
Summary.	14
Evidence	15
Conclusions.	15
Allegation No. 3 (Fraud against the U.S. Government - false statement and false claim)	15
Summary.	15
Evidence	16
Conclusions.	16
SUPPLEMENTAL INFORMATION.	17
LIST OF EXHIBITS.	19

APPLICABLE REGULATIONS

10 CFR 50 Appendix A
10 CFR 50 Appendix B
10 CFR Part 21

Allegation No. 1: Use of interstate wire transmission (telephone) for fraudulently obtaining money.

18 U.S.C. 1343: Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money...by means of false or fraudulent pretenses...causes to be transmitted by means of wire...communication in interstate...commerce any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme...shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Allegation No. 2: Use of U.S. Mail to obtain money by fraudulent means.

18 U.S.C. 1341: Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money...by means of false or fraudulent pretenses, representations...for the purpose of executing such scheme or artifice...places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing...shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Allegation No. 3: Fraud against the U.S. Government - false statement and false claim.

18 U.S.C. 1001: Statements or entries generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

LIST OF INTERVIEWEES

EXHIBIT

BOYD, Harold D., Purchasing Manager, Nutherm International, Inc. . . .	12
EARL, Morris A., President, Spectronics, Inc..	29
HANNAH, Frances, Senior Purchasing Agent, TVA.	18
HOTTE, Mary E., employee, Stokley Enterprises, Inc..	10
MARTIN, Michael A., President, The Martin Company, Inc..	14
ROBERTS, Arthur J., former Engineer, Carolina Power and Light Company (CP&L)	6
STOKLEY, William M., President, Stokley Enterprises, Inc..	9
THOMPSON, Gary S., Senior Procurement Specialist, CP&L	30
TOLBERT, Eugene P., Vice President, Spectronics, Inc..	3

SYNOPSIS

On June 26, 1990, the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Reactor Regulation (NRR), requested that the Office of Investigations investigate allegations of counterfeit or refurbished electric relays being sold to nuclear plants.

Subsequent investigation revealed that Spectronics, Inc., an electronics distributor in Mobile, Alabama, caused 22 relays to be drop shipped from Stokley Enterprises, Inc., to the Shearon Harris Nuclear Plant, New Hill, North Carolina. Initial inspection by NRC personnel and subsequent examination by the manufacturer revealed the relays were not new but were refurbished from old relays. Investigation was conducted at Spectronics in an effort to determine the scope of distribution of the refurbished relays. As a result, business records were obtained which revealed possible fraudulent sales to other nuclear customers as well as military contractors.

Investigation further revealed that Spectronics shipped 30 relays to another vendor which, in turn, shipped 28 of the relays to Watts Bar Nuclear Plant (WBNP), Spring City, Tennessee. Four of the 28 relays shipped to WBNP were found to be altered and bearing identification labels produced by an unauthorized manufacturer.

It was further learned that Spectronics shipped three relays, in October 1989, to the Sequoyah Nuclear Plant (SNP), Soddy-Daisy, Tennessee. Examination revealed the relays were not new as required by the contract but were refurbished. It was learned that Spectronics obtained the relays from The Martin Company, Inc., a company in Norfolk, Virginia, which deals primarily in surplus electronic components purchased from the U.S. Navy.

In each of the three cases, the vice president of Spectronics, Inc., took the customer's orders by interstate telephone call. Investigation revealed that in each case, the customers were supplied with refurbished relays and later received invoices for payment from Spectronics. The two surplus dealers who supplied the relays to Spectronics said the vice president knew he was purchasing refurbished surplus relays.

Information provided by the NRR Vendor Inspection Branch (VIB) revealed there were no NRC regulatory violations regarding the sale of refurbished relays since they were purchased as commercial grade. Corporate counsel for Potter and Brumfield (P&B) stated the labels which were attached to the relays, although unauthorized, were not protected by patent and, therefore, P&B could not claim protection under applicable criminal statutes. However, during the course of this investigation, substantial evidence of violations of other Federal statutes was discovered, some of which were within the jurisdiction of the U.S. Navy. Appropriate information was provided to the Naval Investigative Service and representatives from the U.S. Attorney's Office, Eastern District of Virginia, Norfolk, Virginia.

THIS PAGE LEFT BLANK INTENTIONALLY

ACCOUNTABILITY

The following portions of this Report of Investigation (Case No. 2-90-014) will not be included in the material placed in the Public Document Room. They consist of pages 3 through 20.

THIS PAGE LEFT BLANK INTENTIONALLY

TABLE OF CONTENTS

	<u>Page</u>
SYNOPSIS.	1
ACCOUNTABILITY.	3
APPLICABLE REGULATIONS.	7
LIST OF INTERVIEWEES.	9
DETAILS OF INVESTIGATION.	11
Purpose of Investigation	11
Background	11
Investigative Activity	11
Coordination with NRC Staff.	12
Allegation No. 1 (Use of interstate wire transmission (telephone) for fraudulently obtaining money).	12
Summary.	12
Evidence	13
Conclusions.	14
Allegation No. 2 (Use of U.S. Mail to obtain money by fraudulent means).	14
Summary.	14
Evidence	15
Conclusions.	15
Allegation No. 3 (Fraud against the U.S. Government - false statement and false claim)	15
Summary.	15
Evidence	16
Conclusions.	16
SUPPLEMENTAL INFORMATION.	17
LIST OF EXHIBITS.	19

THIS PAGE LEFT BLANK INTENTIONALLY

APPLICABLE REGULATIONS

10 CFR 50 Appendix A
10 CFR 50 Appendix B
10 CFR Part 21

Allegation No. 1: Use of interstate wire transmission (telephone) for fraudulently obtaining money.

18 U.S.C. 1343: Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money...by means of false or fraudulent pretenses...causes to be transmitted by means of wire...communication in interstate...commerce any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme...shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Allegation No. 2: Use of U.S. Mail to obtain money by fraudulent means.

18 U.S.C. 1341: Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money...by means of false or fraudulent pretenses, representations...for the purpose of executing such scheme or artifice...places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing...shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Allegation No. 3: Fraud against the U.S. Government - false statement and false claim.

18 U.S.C. 1001: Statements or entries generally

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

THIS PAGE LEFT BLANK INTENTIONALLY

LIST OF INTERVIEWEES

EXHIBIT

BOYD, Harold D., Purchasing Manager, Nutherm International, Inc. . . .	12
EARL, Morris A., President, Spectronics, Inc..	29
HANNAH, Frances, Senior Purchasing Agent, TVA.	18
HOTTE, Mary E., employee, Stokley Enterprises, Inc..	10
MARTIN, Michael A., President, The Martin Company, Inc..	14
ROBERTS, Arthur J., former Engineer, Carolina Power and Light Company (CP&L)	6
STOKLEY, William M., President, Stokley Enterprises, Inc..	9
THOMPSON, Gary S., Senior Procurement Specialist, CP&L	30
TOLBERT, Eugene P., Vice President, Spectronics, Inc..	3

THIS PAGE LEFT BLANK INTENTIONALLY

DETAILS OF INVESTIGATION

Purpose of Investigation

This investigation was initiated to determine if refurbished or altered electrical relays bearing counterfeit labels were sold by Spectronics, Inc., or Stokley Enterprises, Inc., for eventual use in nuclear applications.

Background

On June 13, 1990, the U.S. Nuclear Regulatory Commission (NRC), Office of Nuclear Reactor Regulation (NRR), requested Office of Investigations (OI) assistance (Exhibit 1) concerning the inspection of possible counterfeit products received at the Shearon Harris Nuclear Plant (SHNP), New Hill, North Carolina. It was learned that SHNP personnel had ordered 22 Potter and Brumfield (P&B) electrical relays from Spectronics, Inc., Mobile, Alabama, an authorized distributor of P&B products. When the relays arrived at SHNP, they were inspected and found to have indications of tampering and alteration. It was also determined the relays were shipped to SHNP from Stokley Enterprises, Inc., in Norfolk, Virginia, rather than Spectronics. This information was relayed to the NRC and it was later confirmed by the manufacturer that the SHNP relays were refurbished relays with counterfeit labels to give them a new appearance. On June 26, 1990, NRR requested a full investigation (Exhibit 2) to determine the origin and extent of distribution of the suspect relays.

Investigative Activity

Eugene P. (Pete) TOLBERT, Vice President, Spectronics, Inc., was contacted to determine where he obtained the relays and whether he had sold them to other customers for use in nuclear applications (Exhibit 3). TOLBERT supplied records which provided sales and distribution information. At the time of TOLBERT's interview, the primary goal was to obtain documentation in the form of business records. The answers he provided during his oral interview were largely self-serving since he did not volunteer information regarding sales to other nuclear users. A review of the documents provided by TOLBERT provided leads which indicated fraudulent sales of relays to nuclear customers as well as contractors to the U.S. Navy (Exhibit 4, pp. 20 and 26). It was determined that a reinterview of TOLBERT would not provide any additional useful information, in view of his evasive responses during the interview of July 2, 1990. The sales documents provided by TOLBERT generated sufficient lead information to establish his method of operation.

A review of Spectronics' records revealed other suspect relays were sold by Spectronics to the Tennessee Valley Authority (TVA), Sequoyah Nuclear Plant (SNP), Soddy-Daisy, Tennessee, and Nutherm International, Inc., Mt. Vernon, Illinois. The relays sold to Nutherm had been put into service at Watts Bar Nuclear Plant (WBNP), Spring City, Tennessee. Documents and testimony indicated that in all three cases the sales were made by telephone by TOLBERT.

Morris A. EARL, President of Spectronics, Inc., resides near Atlanta, Georgia, and said the operation of the store in Mobile, Alabama, is the responsibility of TOLBERT (Exhibit 29, p.1). EARL was not implicated by any of the witnesses in this matter nor did his name appear on any documents.

It was established during the course of this investigation that neither Spectronics, Stokley, nor The Martin Company violated NRC regulations since the relays were purchased as commercial grade (Exhibit 5, pp. 2, 4, 6, and 8 and Exhibit 19, p. 1). However, information was developed that as a result of the sale of the refurbished relays there may have been violations of Federal criminal statutes regarding trafficking in counterfeit goods, fraud by wire, fraud by mail, and making a false statement to the U.S. Government. Pertinent evidence was developed and provided to the U.S. Attorney's Office, Eastern District of Virginia, Norfolk, Virginia. Prior to completion of this investigation, it was determined that trafficking in counterfeit goods was not applicable.

Coordination with NRC Staff

This investigation originated from information received from the NRR Vendor Inspection Branch (VIB). VIB conducted inspections at Spectronics and Stokley to determine whether NRC regulations were violated concerning the sales or purchase of the electrical products. VIB representatives accompanied OI personnel during this investigation to assist in reviewing sales records. Customer records were reviewed for potential sales to other nuclear users and that information was provided by VIB to OI.

Allegation No. 1: Use of interstate wire transmission (telephone) for fraudulently obtaining money.

Summary

The following individuals were interviewed to determine whether Pete TOLBERT used long distance telephone calls to fraudulently sell used electrical parts which were represented as new products.

<u>Name</u>	<u>Position</u>	<u>Date of Interview</u>
BOYD, Harold D.	Purchasing Manager, Nutherm International, Inc.	July 24, 1990
HANNAH, Frances	Senior Purchasing Agent, TVA	October 1, 1990
HOTTE, Mary E.	employee, Stokley Enterprises, Inc.	June 28, 1990
MARTIN, Michael A.	Owner, The Martin Company, Inc.	July 17, 1990
ROBERTS, Arthur J.	former Engineer, Carolina Power and Light Company (CP&L)	June 15, 1990
STOKLEY, William M.	President, Stokley Enterprises, Inc.	June 27, 1990
THOMPSON, Gary S.	Senior Procurement Specialist, CP&L	January 7, 1991

Evidence

1. ROBERTS said he contacted Spectronics, Inc., in Mobile, Alabama, from his office at SHNP in New Hill, North Carolina, and discussed the purchase of electrical relays with Pete TOLBERT (Exhibit f, p. 1).

2. ROBERTS said he was suspicious of the relays that SHNP ordered from Spectronics even as he was discussing the transaction with TOLBERT and, therefore, did not order them immediately (Exhibit 6, p. 1).
3. THOMPSON, unaware that ROBERTS had already contacted Spectronics, also talked with TOLBERT and placed the order. THOMPSON said TOLBERT never said anything about the relays being refurbished nor did he ask if a used product was acceptable (Exhibits 30 and 31).
4. ROBERTS said he inspected the relays upon arrival at SHNP and had no doubt they were refurbished (Exhibit 6, p. 1).
5. ROBERTS made a list of characteristics of the suspect relays which did not match a relay known to be an authentic P&B product (Exhibit 7).
6. The 22 relays received at SHNP were examined by P&B and found to exhibit numerous electrical, mechanical, and cosmetic anomalies which indicated tampering and refurbishing (Exhibit 8).
7. STOKLEY said he shipped 22 relays directly to SHNP as a result of a telephone order received from TOLBERT (Exhibit 9, p. 1).
8. STOKLEY said he deals almost exclusively in surplus electrical parts which he buys from the U.S. Navy (Exhibit 9, p. 2).
9. HOTTE said she personally cleaned the relays and applied new manufacturer's labels which were shipped to SHNP (Exhibit 10, p. 4).
10. HOTTE said the new labels which she applied to the relays were purchased from Virginia Art Metal and Plastic (VAMP) (Exhibit 10, p. 4 and Exhibit 11).
11. BOYD said he telephoned Spectronics and talked with TOLBERT regarding Nutherm's purchase of P&B relays. BOYD said TOLBERT was aware that Nutherm would place the relays into a nuclear application (Exhibit 12).
12. BOYD said that he discussed traceability requirements with TOLBERT during their telephone conversation and that requirement was documented on the purchase order sent to Spectronics (Exhibits 12 and 13).
13. BOYD said Nutherm shipped 28 of the relays to WBNP after they were dedicated for nuclear service (Exhibit 12 and Exhibit 33, pp. 3 and 5).
14. Four of the 28 relays purchased by Nutherm from Spectronics were found to be refurbished (Exhibit 17) and could not be traced back to the manufacturer (Exhibit 12).
15. Martin Invoice No. 842 indicates four model 134-1 relays were shipped on March 26, 1990, to Spectronics, two of which are shown as being converted from a different model (Exhibit 15).
16. Spectronics shipped four P&B model 134-1 relays to Nutherm on March 28, 1990 (Exhibit 16).

17. The relays received at Nutherm from Spectronics were examined by P&B and were found to exhibit electrical, mechanical, and cosmetic anomalies which indicated tampering and refurbishing (Exhibit 17).
18. HANNAH contacted TOLBERT by long distance telephone to inquire about the purchase of electrical relays and was assured the relays could be delivered to SNP by October 16, 1989. HANNAH called from her office in Chattanooga, Tennessee, to TOLBERT's office in Mobile, Alabama (Exhibit 18).
19. TVA issued Purchase Order No. 89NLB-83028B on September 15, 1989, on behalf of the SNP, to Spectronics, confirming HANNAH's telephone order to TOLBERT on the same date. The order was for three P&B model 135-1 relays and specifically required "All materials and/or equipment offered to be furnished as a result of this request for quotation shall be new, unused, not surplus, and not rebuilt" (Exhibit 19, pp. 1 and 3).
20. MARTIN said he refurbished three P&B model 135-1 relays which he shipped to TOLBERT on October 16, 1989 (Exhibit 14, p. 1 and Exhibit 20).
21. SNP received three P&B model 135-1 relays from Spectronics on October 20, 1989 (Exhibit 21).
22. TOLBERT provided a Certificate of Compliance to SNP which certified the three relays met all contract requirements (Exhibit 22).
23. An examination by P&B of two of the relays purchased from Spectronics by SNP revealed characteristics inconsistent with the P&B quality assurance program (Exhibit 23).
24. CP&L's THOMPSON received a letter dated July 12, 1990, from Spectronics and signed by TOLBERT, wherein he stated, "It is not and has not been our intent to handle used or used surplus items" (Exhibit 26).

Conclusions

It is concluded that TOLBERT received interstate telephone sales orders from SHNP, Nutherm, and SNP. It is further concluded that TOLBERT knowingly provided used or refurbished products as if they were new with the intent to defraud the purchasers.

Allegation No. 2: Use of U.S. Mail to obtain money by fraudulent means.

Summary

During interviews and review of documents associated with Allegation No. 1, evidence indicated that invoices for the counterfeit goods and resulting payments most likely were placed in the U.S. Mail. The use of the U.S. Mail for transmitting invoices was not pursued during the early phase of this investigation. However, it is anticipated that subsequent testimony will likely establish this practice as a normal course of business.

Evidence

1. STOKLEY transmitted Invoice No. 6956 dated May 31, 1990, from his business in Norfolk, Virginia, to Spectronics in Mobile, Alabama, for the sale of the relays ultimately shipped to SHNP (Exhibit 24).
2. Invoice No. 14141 dated June 4, 1990, was received from Spectronics at CP&L as a result of TOLBERT selling 22 relays to SHNP (Exhibit 25).
3. CP&L received a letter dated July 12, 1990, from Spectronics and signed by TOLBERT, wherein he stated "It is not and has not been our intent to handle used or used surplus items" (Exhibit 26).
4. MARTIN advised he has specifically told TOLBERT on previous occasions that a particular item TOLBERT was purchasing was refurbished (Exhibit 14, p. 2 and Exhibit 32).
5. MARTIN transmitted Invoice No. 842 dated March 26, 1990, to Spectronics for four model 134-1 relays, two of which had been converted from model 163-1 (Exhibit 15).
6. Spectronics transmitted Invoice No. 12311 dated March 28, 1990, as a result of TOLBERT's sale of four model 134-1 relays to Nutherm (Exhibit 16).
7. MARTIN provided Invoice No. 470 dated October 10, 1989, to Spectronics for three P&B model 135-1 relays (Exhibit 20).
8. Spectronics provided Invoice No. 8120 dated October 23, 1989, to TVA as a result of TOLBERT's sale of three model 135-1 relays to SNP (Exhibit 27).
9. TVA transmitted U.S. Treasury Check No. 4912-79431845 dated November 2, 1989, in the amount of \$793.80, to Spectronics for the purchase of three P&B model 135-1 relays (Exhibit 28).
10. TVA received a letter dated July 12, 1990, from Pete TOLBERT, wherein he states, "It is not and has not been our intent to handle used surplus items" (Exhibit 34).

Conclusions

It is concluded that TOLBERT placed invoices in the U.S. Mail to CP&L, TVA, and Nutherm for the sale of used or refurbished relays which TOLBERT sold as new. It is further concluded that TOLBERT received payment from the U.S. Government for the relays he fraudulently represented as new.

Allegation No. 3: Fraud against the U.S. Government - false statement and false claim.

Summary

During interviews and review of documents associated with Allegation No. 1, evidence indicated that TOLBERT may have defrauded the U.S. Government. A TVA contract from SNP for the purchase of three P&B relays from Spectronics

required the relays to be new. TOLBERT supplied a signed certificate to TVA, along with the relays, certifying they were new when, in fact, he knew the relays were not new.

Evidence

1. TVA issued Contract No. 89NLB-83028B dated September 15, 1989, to Spectronics for the purchase of three P&B model 135-1 relays. The contract refers to a telephone order to Pete TOLBERT on the same date (Exhibit 19, p. 1).
2. Condition 7 of the TVA contract requires the purchased material to be new, unused, not surplus, and not rebuilt (Exhibit 19, p. 3).
3. TOLBERT provided a Certificate of Compliance, signed by him, which indicated compliance with the purchase order (Exhibit 22).
4. MARTIN provided Invoice No. 470 for three P&B model 135-1 relays he shipped to TOLBERT on October 16, 1989. MARTIN said the relays he shipped to TOLBERT were refurbished and that TOLBERT knew the relays were not new, but were either new surplus or refurbished (Exhibit 20 and Exhibit 14, p. 1).
5. TVA Receiving Report No. P1050 indicates three P&B MDRs 135-1 were received from Spectronics on October 20, 1989 (Exhibit 21).
6. TOLBERT received a check from TVA drawn on the U.S. Treasury for \$793.80 as payment for the relays (Exhibit 28).
7. Two of the relays sold to SNP by TOLBERT were examined by P&B and were determined to have been refurbished (Exhibit 23).

Conclusions

It is concluded that TOLBERT knowingly supplied TVA a Certificate of Compliance he knew to be false.

SUPPLEMENTAL INFORMATION

During the course of this investigation, it was determined that that no NRC regulations had been violated regarding the sales of the relays by Stokley and Spectronics. However, it appeared that TOLBERT and others had possibly violated certain sections of the U.S. Federal criminal code. Specifically, the relays which were being refurbished had new nameplates attached to them bearing the original manufacturer's name (Potter and Brumfield). It was the opinion of the U.S. Attorney, Eastern District of Virginia, Norfolk, Virginia, that this practice was a violation of 18 U.S.C. 2320, trafficking in counterfeit goods, which prohibits the unauthorized use of a patented trade name. Paul CASSELL, Assistant U.S. Attorney (AUSA) responsible for this matter, was advised by attorneys for Potter and Brumfield that the logo "P&B" was patented for their products. However, the name "Potter and Brumfield," which was how the unauthorized labels were printed, is not protected by patent according to the attorneys. CASSELL said he would not pursue prosecution of Stokley, Spectronics, The Martin Company, or VAMP for section 2320, but would continue to seek prosecution of TOLBERT for the remaining violations described in the "Details" section of this report.

As a result of this investigation, collateral information was developed regarding possible fraudulent sales of electrical products to several ship-building firms holding contracts with the U.S. Navy. The U.S. Naval Investigative Service (NIS) developed the information and presented the matter to AUSA CASSELL. CASSELL indicated he would consider the facts from both the NRC and NIS investigations for joint prosecutive action due to the business relationships involved.

THIS PAGE LEFT BLANK INTENTIONALLY

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Request for assist to inspection dated June 13, 1990.
2	Request for Investigation dated June 26, 1990.
3	Report of Interview with TOLBERT dated July 2, 1990.
4	Alphabetical Customer List for Spectronics as of July 2, 1990.
5	Memo from NRR/VIB to OI:RII dated September 27, 1990, with attachments.
6	Report of Interview with ROBERTS dated June 15, 1990.
7	List of non-conforming characteristics compiled by ROBERTS of suspect relays received at SHNP from Stokley, undated.
8	Report of examination by P&B of 22 relays received at SHNP with cover letter dated July 13, 1990.
9	Report of Interview with STOKLEY dated June 27, 1990.
10	Signed statement of HOTTE dated June 28, 1990.
11	Copies of two VAMP Invoices, No. 4541 and No. 4563, to Stokley for product labels which were applied to relays by HOTTE.
12	Report of Interview with BOYD dated July 24, 1990.
13	Nutherm Purchase Order No. 3996-01 to Spectronics dated February 15, 1990, for 30 P&B relays.
14	Report of Interview with MARTIN dated July 17, 1990.
15	Martin Company Invoice No. 842, for four P&B model 134-1 relays shipped to Spectronics on March 26, 1990.
16	Spectronics Invoice No. 12311 to Nutherm for four P&B model 134-1 relays shipped March 28, 1990.
17	Report of examination by P&B of five relays received at Nutherm dated August 7, 1990.
18	Report of Interview with HANNAH dated October 1, 1990.
19	TVA Purchase Order No. 89NLB-83028B to Spectronics for three P&B model 135-1 relays.

<u>Exhibit No.</u>	<u>Description</u>
20	Martin Company Invoice No. 470 dated October 10, 1989, to Spectronics for three P&B model 135-1 relays shipped October 16, 1989.
21	SNP Receiving Report No. PI050 dated October 24, 1989, for three P&B model 135-1 relays received from Spectronics on October 20, 1989.
22	Certificate of Compliance provided by TOLBERT to SNP for relays sold under TVA Contract No. 89NLB-83028B.
23	Report of examination dated August 7, 1990, by P&B of two relays received at SNP from Spectronics on October 20, 1989.
24	Stokley Invoice No. 6956 to Spectronics for four 142-1, six 173-1, and twelve 138-8 P&B relays at \$6,792.00, shipped on May 30, 1990.
25	Spectronics Invoice No. 14141 to CP&L for four 142-1, six 173-1, and twelve 138-8 P&B relays for \$11,472.00.
26	Letter from TOLBERT to CP&L dated July 12, 1990.
27	Spectronics Invoice No. 8120 to TVA for three model 135-1 relays sold to SNP.
28	U.S. Treasury Check No. 4912-79431845 in the amount of \$793.80 payable to Spectronics, Inc.
29	Report of Interview with EARL dated July 6, 1990.
30	Report of Interview with THOMPSON dated January 7, 1991.
31	CP&L Requisition No. 90136 dated May 30, 1990.
32	Martin Company Invoice No. 0855 dated March 26, 1990.
33	Nutherm Letter of Transmittal to WBNP dated May 4, 1990, with attached Certificates of Compliance.
34	TOLBERT letter to TVA dated July 12, 1990.