

EDO Principal Correspondence Control

FROM: DUE: 09/29/09

EDO CONTROL: G20090508
DOC DT: 08/27/09
FINAL REPLY:

Senator Arlen Specter

TO:

Schmidt, OCA

FOR SIGNATURE OF :

** GRN **

CRC NO: 09-0441

Borchardt, EDO

DESC:

Nuclear Materials and Equipment Corporation -
Diversion of Nuclear Material
(EDATS: SECY-2009-0406)

ROUTING:

Borchardt
Virgilio
Mallett
Ash
Ordaz
Burns/Gray
Caputo, OI
Carpenter, OE
Burns, OGC
Schmidt, OCA
Frazier, OEDO

DATE: 09/10/09

ASSIGNED TO:

NMSS

CONTACT:

Weber

SPECIAL INSTRUCTIONS OR REMARKS:

Please prepare response to Senator Specter for the signature of the EDO. Prepare response in accordance with OEDO Notice 2009-0441-01 (ML090490315). You may also refer to the ADAMS Congressional Correspondence Folder to help in preparing response.

Template: SECY-017

ERIDS: SECY-01

EDATS

Electronic Document and Action Tracking System

EDATS Number: SECY-2009-0406

Source: SECY

General Information

Assigned To: NMSS

OEDO Due Date: 9/29/2009

Other Assignees:

SECY Due Date: 10/1/2009

Subject: Nuclear Materials and Equipment Corporation - Diversion of Nuclear Material

Description:

CC Routing: NONE

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20090508, LTR-09-0441

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Related Task:

Recurring Item: NO

File Routing: EDATS

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OEDO Monthly Report Item: NO

Process Information

Action Type: Letter

Priority: Medium

Signature Level: EDO

Sensitivity: None

Urgency: NO

OEDO Concurrence: NO

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: Please prepare response to Senator Specter for the signature of the EDO. Prepare response in accordance with OEDO Notice 2009-0441-01 (ML090490315). You may also refer to the ADAMS Congressional Correspondence Folder to Help in preparing response.

Document Information

Originator Name: Senator Arlen Specter

Date of Incoming: 8/27/2009

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Addressee: Rebecca Schmidt, OCA

Date Response Requested by Originator: NONE

Incoming Task Received: Letter

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 09, 2009 09:33

PAPER NUMBER: LTR-09-0441 **LOGGING DATE:** 09/09/2009
ACTION OFFICE: EDO

AUTHOR: SEN Arlen Specter
AFFILIATION: CONG
ADDRESSEE: Rebecca Schmidt
SUBJECT: Concerns documentation and references that damaged professional reputation of constituent

ACTION: Signature of EDO
DISTRIBUTION: OCA to Ack, OGC, OPA

LETTER DATE: 08/27/2009
ACKNOWLEDGED: No
SPECIAL HANDLING:

NOTES:
FILE LOCATION: ADAMS

DATE DUE: 10/01/2009 **DATE SIGNED:**

EDO --G20090508

ARLEN SPECTER
PENNSYLVANIA

COMMITTEES:
JUDICIARY
APPROPRIATIONS
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS
AGING

United States Senate

WASHINGTON, DC 20510-3802
specter.senate.gov
August 27, 2009

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215-597-7200
- REGIONAL ENTERPRISE TOWER
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412-644-3400
- STE B-120, FEDERAL BUILDING
17 SOUTH PARK ROW
ERIE, PA 16501
814-453-3010
- ROOM 1104, FEDERAL BUILDING
HARRISBURG, PA 17101
717-782-3951
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504 W. HAMILTON
ALLENTOWN, PA 18101
610-434-1444
- 310 SPRUCE STREET, SUITE 201
SCRANTON, PA 18503
570-346-2006
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SUITE 377M
116 S. MAIN STREET
WILKES-BARRE, PA 18702
570-826-6265

- 711 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-3802
202-224-4254

Ms. Rebecca Schmidt
Director
Office of Congressional Affairs
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Ms. Schmidt:

My office has been contacted by Hadrian R. Katz of Arnold & Porter, LLP on behalf of his client and my constituent, Dr. Zalman Shapiro.

According to the information I have received, Dr. Shapiro organized the Nuclear Materials and Equipment Corporation (NUMEC), which was the subject of Atomic Energy Commission, Department of Justice, and Joint Committee on Atomic Energy investigations for alleged diversion of special nuclear material. I have been advised that, following the closure of the NUMEC facility, an amount of uranium equal to the amount believed to have been diverted to Israel was later identified and collected from the decommissioned facility.

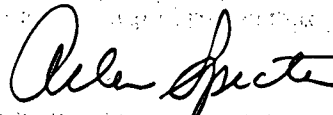
It is my understanding that no formal charges were ever brought against Dr. Shapiro; however, numerous articles and books on the subject have referenced the investigations, which Dr. Shapiro reports have lent credibility to the accusations and significantly damaged his professional reputation. Therefore, Dr. Shapiro is requesting that the Nuclear Regulatory Commission issue a formal public statement confirming that he was not involved in any activities related to the diversion of uranium to Israel. I am enclosing a copy of the correspondence that I have received, in which Dr. Shapiro's concerns are explained in greater detail.

I would greatly appreciate your reviewing this matter and affording Dr. Shapiro's request your full and fair consideration. Please direct your reply to my assistant, Mr. Bill Bayer, at the following address:

425 6th Avenue, Suite 1450
Pittsburgh, PA 15219
(412) 644-3400 (T); (412) 644-4871 (F)

Thank you for your assistance with the aforementioned matter.

Sincerely,



Arlen Specter

AS/bjb
Enclosure

August 7, 2009

BY HAND

The Honorable Arlen Specter
United States Senate
711 Hart Building
Washington, DC 20510

Re: Dr. Zalman M. Shapiro

Dear Senator Specter:

We write at Mr. Bayer's suggestion on behalf of our long-time pro bono client and friend, Dr. Zalman M. Shapiro of Pittsburgh, a distinguished engineer and innovator, who has contributed with distinction to the advancement of science and technology, and the success of the United States nuclear program, over a 60 year career. Despite his many accomplishments, Dr. Shapiro has for many years been the subject of repeated defamatory statements, and we respectfully request your assistance in clearing a great American scientist's good name. In particular, we would ask that this letter be forwarded to the Office of the Chairman of the Nuclear Regulatory Commission with your recommendation that the Commission issue a formal statement confirming once and for all that Dr. Shapiro did not participate in the unlawful diversion of nuclear material to the State of Israel.

From 1950 to 1957, Dr. Shapiro worked at the Naval Reactor Facility at Bettis, Pennsylvania, earning Westinghouse's highest employee award for his work on zirconium. He was cited by Admiral Rickover as one of the four men most responsible for the success of the first nuclear powered submarine. Thereafter, when the government was encouraging the development of a private nuclear industry, Dr. Shapiro resigned from Westinghouse to organize the Nuclear Materials and Equipment Corporation ("NUMEC"), which was engaged primarily in the conversion of enriched UF₆ (uranium hexafluoride) into UO₂ (uranium oxide) powder for fuel fabrication, and in the reprocessing of enriched uranium scrap. NUMEC also fabricated UO₂ powder into pellets for commercial reactors, and developed and fabricated fuel for advanced reactors such as the propulsion system for the proposed NERVA rocket.

As you may be aware, during the late 1960s and 1970s, NUMEC became the subject of investigation by Attorney General Mitchell and the FBI for alleged diversion of special nuclear material to the State of Israel. In the course of processing at NUMEC,

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particularly scrap recovery operations, there were inevitably losses of small amounts of uranium. Because of the low product yields for the exotic fuels produced by NUMEC, an exceptional amount of scrap was generated that had to be reprocessed and recycled. Each time the material was remanufactured, the total process losses increased. Determining the amount of material lost in processing is not an exact science, and it appears that for some period of time NUMEC underestimated the amount of material expended. When it was later determined that actual processing losses exceeded NUMEC estimates, suspicion of possible diversion was raised, and intensive investigations followed.

In 1965, the Atomic Energy Commission sent a team of nuclear material management personnel to NUMEC to conduct an audit and determine, if possible, the reason for the processing losses, a cumulative total of approximately 100 Kg (220 lbs) of enriched uranium. The investigators concluded that there was no indication of any diversion, and that a diversion would have been as a practical matter impossible. In the course of our representation of Dr. Shapiro in the 1970s, we spoke with every significant individual involved in these investigations personally, and all of them repeated their conclusion that there was no diversion.

Following the AEC investigation, the FBI and the Joint Committee on Atomic Energy sent in their own teams to investigate. Various possibilities were investigated, but no evidence indicating diversion was ever found. One CIA analyst concluded that Dr. Shapiro had diverted uranium to Israel, and that view was picked up by journalists. One journalist would rely on another's misinformation, and the diversion suspicions were treated as fact. The distortions snowballed; books and articles magnified and embellished damaging falsehoods. The more these maligning assertions were repeated in print and online media, the greater the perception of credibility.

As described in a book by well-known journalist Seymour Hersh, in a chapter entitled "Injustice," the CIA operative who advanced the diversion theory later recanted: "With all the grief I've caused," he said, referring to Shapiro's ruined career, "I know of nothing at all to indicate that Shapiro was guilty." S.M. Hersh, *The Samson Option* 255 (1991). Nevertheless, with the advent of the Internet, these discredited falsehoods are now globally available and are still kept alive and recirculating.

Though no charges were ever brought against Dr. Shapiro, as a result of all of the allegations, investigations, and being tried in the press, his life was made miserable. He was the butt of snide remarks made by peers and superiors and was shunted aside from projects to which he could have made significant contributions. Dr. Shapiro's reputation, career and health were all adversely affected, his family was traumatized, and in order to

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defend himself against charges that had no basis in fact he was forced to deplete his savings.

Dr. Glenn Seaborg summarized the Shapiro investigations with characteristic eloquence in his autobiography:

Shapiro continued in a successful career, occupying positions of increasing responsibility with Westinghouse until his retirement in 1983. But his career might have been even more successful if not for this undeserved blemish on his record. Later in the 1970s, the story came to light after enterprising journalists filed Freedom of Information Act requests. Unfortunately, however, some of their articles left the impression that Shapiro had in fact diverted the uranium.

Lest I be considered a biased source, with an interest in claiming that no uranium diversion happened on my watch, let me quote from Seymour Hersh's intensively researched book on Israel's quest for nuclear weapons, *The Samson Option*: "Despite more than ten years of intensive investigation involving active FBI surveillance, however, no significant evidence proving that Shapiro had diverted any uranium from his plant was ever found. Nonetheless, he remained guilty in the minds of many in the government and the press. . . . Zalman Shapiro did not divert uranium from the processing plant to Israel." Hersh relates that the "missing" uranium was found during the cleanup of Shapiro's plant: "More than one hundred kilograms of enriched uranium – the amount allegedly diverted to Israel by Zalman Shapiro – was recovered from the decommissioned plant by 1982, with still more being recovered each year."

G.T. Seaborg, *Adventures in the Atomic Age* 221-22 (2001).

Dr. Shapiro recently received his fifteenth patent, this one covering an innovative process for manufacturing both jewel-grade and industrial diamonds cheaply and efficiently. This accomplishment by an 89-year-old scientist has received favorable

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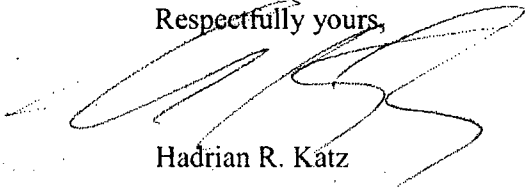
coverage in the press, but some of the stories have seen fit to repeat the old allegations of diversion.

In addition, Dr. Shapiro has recently been nominated to be one of the recipients of the 2009 National Medal of Technology and Innovation. Numerous letters of recommendation, strongly supporting that nomination, attest to Dr. Shapiro's profound contributions to the defense and well-being of the United States over his professional lifetime, and demonstrate that he richly deserves this award. But Dr. Shapiro's nomination will lead to another FBI background check, and we are concerned that repetition of the diversion innuendo could adversely affect a distinguished scientist's opportunity to receive a well-deserved honor.

Dr. Shapiro has never had an opportunity to obtain a formal statement from any government agency clearing him of the false accusations made long ago. We respectfully suggest that the time has come for the NRC once and for all to confirm that Dr. Shapiro committed no diversion. An attack on Dr. Shapiro is necessarily an attack on the Atomic Energy Commission as well, and the NRC would itself benefit from putting the stories of diversion to final rest. The NRC's unequivocal statement that Dr. Shapiro did not divert nuclear material to Israel, that the material has been accounted for, and that he is, and has always been, a loyal citizen of the United States who has contributed significantly to its defense should be conveyed to the FBI, with a recommendation that this statement be given a prominent position in the files on Dr. Shapiro.

We appreciate your attention to this letter, and respectfully ask that the NRC assign this matter to an appropriate member of the Commission staff to assist us in bringing the defamation of Dr. Shapiro to a close. We would welcome the opportunity to discuss the situation at the Commission's convenience with whomever is designated.

Respectfully yours,



Hadrian R. Katz

cc: Mr. William J. Bayer