

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

\_\_\_\_\_  
In the Matter of: )  
 )  
Serfilco, Ltd. )  
2900 MacArthur Blvd )  
Northbrook, IL 60062 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO SERFILCO, LTD.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Serfilco, Ltd. (“Serfilco”) of its intention to initiate an administrative proceeding against Serfilco pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Proposed Charging Letter to Serfilco that alleged that Serfilco committed eight violations of the Regulations. Specifically, these charges are:

**Charges 1-4            15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Industrial Pumps and Pump Components Controlled for Chemical and Biological Weapons Reasons Without the Required Licenses**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, Serfilco engaged in conduct prohibited by the Regulations by exporting industrial pumps and pump components, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 2B350 and controlled for Chemical and

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2004 and 2005. The Regulations governing the violations at issue are found in the 2004 and 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004-2005)). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R. 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50661 (Aug. 16, 2011)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et. seq.*).

Biological Weapons reasons, from the United States to Russia, India and Israel without the Department of Commerce licenses required by Section 742.2(a) of the Regulations. In so doing, Serfilco committed four violations of Section 764.2(a) of the Regulations.

**Charges 5-8            15 C.F.R. § 764.2(a): Failure to File Shipper's Export Declarations or Automated Export System Records**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, in connection with the export transactions described in Charges 1-4 above, Serfilco refrained from engaging in conduct required by Regulations when it failed to file a Shipper's Export Declaration ("SED") or Automated Export System ("AES") record with the U.S. Government. Pursuant to Section 758.1(b) of the Regulations, an SED or AES record must be filed with the U.S. Government for all exports subject to the Regulations that require an export license, regardless of value or destination. At all pertinent times hereto, a Department of Commerce license was required pursuant to Section 742.2(a) of the Regulations to export industrial pumps and pump components, items subject to the Regulations, classified under ECCN 2B350 and controlled for Chemical and Biological Weapons reasons, from the United States to Russia, India and Israel. In failing to file the required SED or AES records, Serfilco committed four violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Serfilco have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Serfilco shall be assessed a civil penalty in the amount of \$44,000. Serfilco shall pay \$15,000 to the U.S. Department of Commerce not later than September 15, 2011.

Thereafter, Serfilco shall pay \$14,500 to the U.S. Department of Commerce not later than November 15, 2011; and \$14,500 not later than January 15, 2012. If any of these three installment payments is not fully and timely made in accordance with this payment schedule, any remaining scheduled installment payments shall become due and owing immediately. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if any payment is not made in full by the due dates set forth herein, Serfilco will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment in full of the civil penalty in accordance with the payment schedule set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Serfilco. Accordingly, if Serfilco should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of Serfilco's export privileges under the Regulations for a period of one year from the date on which the last installment payment is due.

FOURTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.



David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 16 day of August, 2011.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

In the Matter of: )  
 )  
Serfilco, Ltd. )  
2900 MacArthur Blvd )  
Northbrook, IL 60062 )  
 )  
Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Serfilco, Ltd. (“Serfilco”) and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup>

WHEREAS, BIS has notified Serfilco of its intention to initiate an administrative proceeding against it, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Serfilco that alleges that Serfilco committed eight violations of the Regulations, specifically:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2004 and 2005. The Regulations governing the violations at issue are found in the 2004 and 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004-2005)). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*).

**Charges 1-4**                    **15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Industrial Pumps and Pump Components Controlled for Chemical and Biological Weapons Reasons Without the Required Licenses**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, Serfilco engaged in conduct prohibited by the Regulations by exporting industrial pumps and pump components, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 2B350 and controlled for Chemical and Biological Weapons reasons, from the United States to Russia, India and Israel without the Department of Commerce licenses required by Section 742.2(a) of the Regulations. In so doing, Serfilco committed four violations of Section 764.2(a) of the Regulations.

**Charges 5-8**                    **15 C.F.R. § 764.2(a): Failure to File Shipper’s Export Declarations or Automated Export System Records**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, in connection with the export transactions described in Charges 1-4 above, Serfilco refrained from engaging in conduct required by Regulations when it failed to file a Shipper’s Export Declaration (“SED”) or Automated Export System (“AES”) record with the U.S. Government. Pursuant to Section 758.1(b) of the Regulations, an SED or AES record must be filed with the U.S. Government for all exports subject to the Regulations that require an export license, regardless of value or destination. At all pertinent times hereto, a Department of Commerce license was required pursuant to Section 742.2(a) of the Regulations to export industrial pumps and pump components, items subject to the Regulations, classified under ECCN 2B350 and controlled for Chemical and Biological Weapons reasons, from the United States to Russia, India and Israel. In failing to file the required SED or AES records, Serfilco committed four violations of Section 764.2(a) of the Regulations.

WHEREAS, Serfilco filed a voluntary self-disclosure with BIS’s Office of Export Enforcement;

WHEREAS, Serfilco has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Serfilco fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Serfilco enters into this Agreement voluntarily and with full knowledge of its rights after having consulted with counsel;

WHEREAS, Serfilco states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, Serfilco neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, Serfilco wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, Serfilco agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Serfilco, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against Serfilco in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. Serfilco shall be assessed a civil penalty in the amount of \$44,000.

Serfilco shall pay \$15,000 to the U.S. Department of Commerce not later than September 15, 2011. Thereafter, Serfilco shall pay \$14,500 to the U.S. Department of Commerce not later than November 15, 2011; and \$14,500 not later than January 15, 2012. If any of these three installment payments is not fully and timely made in accordance with this payment schedule, any remaining

scheduled installment payments shall become due and owing immediately.

Payment shall be made in the manner specified in the attached instructions.

b. The full and timely payment of the civil penalty in accordance with the payment schedule agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Serfilco. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Serfilco's export privileges for a period of one year from the date on which the final installment payment is due.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Serfilco hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Serfilco also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled for the time period from the date of the Order, if issued, until the date Serfilco pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter, or in connection with collection of the civil penalty or enforcement of the Agreement and Order, if issued.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a. above it will not initiate any further administrative proceeding against Serfilco in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

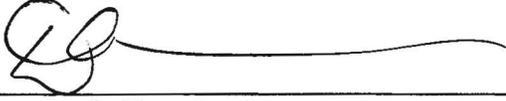
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind its respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrock  
Director  
Office of Export Enforcement

Date: 8/12/2011

SERFILCO, LTD.



Jim Berg  
President

Date: 8/10/2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Serfilco, Ltd.  
2900 MacArthur Blvd  
Northbrook, IL 60062

*Attention: Jim Berg, President*

Dear Mr. Berg:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Serfilco, Ltd., of Northbrook, Illinois (“Serfilco”), has committed eight violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that Serfilco committed the following violations:

**Charges 1-4                    15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Industrial Pumps and Pump Components Controlled for Chemical and Biological Weapons Reasons Without the Required Licenses**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, Serfilco engaged in conduct prohibited by the Regulations by exporting industrial pumps and pump components, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 2B350 and controlled for Chemical and Biological Weapons reasons, from the United States to Russia, India and Israel without the Department of Commerce licenses required by Section 742.2(a) of the Regulations. In so doing, Serfilco committed four violations of Section 764.2(a) of the Regulations.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred during 2004 and 2005. The Regulations governing the violations at issue are found in the 2004 and 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004-2005)). The 2011 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (“IEEPA”).

**Charges 5-8****15 C.F.R. § 764.2(a): Failure to File Shipper's Export Declarations or Automated Export System Records**

On four occasions, on or about April 30, 2004, July 15, 2004, February 8, 2005, and April 27, 2005, respectively, in connection with the export transactions described in Charges 1-4 above, Serfilco refrained from engaging in conduct required by Regulations when it failed to file a Shipper's Export Declaration ("SED") or Automated Export System ("AES") record with the U.S. Government. Pursuant to Section 758.1(b) of the Regulations, an SED or AES record must be filed with the U.S. Government for all exports subject to the Regulations that require an export license, regardless of value or destination. At all pertinent times hereto, a Department of Commerce license was required pursuant to Section 742.2(a) of the Regulations to export industrial pumps and pump components, items subject to the Regulations, classified under ECCN 2B350 and controlled for Chemical and Biological Weapons reasons, from the United States to Russia, India and Israel. In failing to file the required SED or AES records, Serfilco committed four violations of Section 764.2(a) of the Regulations.

\* \* \* \* \*

Accordingly, Serfilco is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation<sup>3</sup>;
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Serfilco fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7 (2011). If Serfilco defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Serfilco. The Under Secretary for Industry and Security may then impose up to the maximum penalty on the charges in this letter.

Serfilco is further notified that it is entitled to an agency hearing on the record if Serfilco files a written demand for one with its answer. *See* 15 C.F.R. § 766.6 (2011). Serfilco is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4 (2011).

Serfilco is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Serfilco may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

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<sup>3</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2011). Should Serfilco have a proposal to settle this case, Serfilco or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Serfilco's answer must be filed in accordance with the instructions set forth in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of Serfilco's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Gregory Michelsen, Esq.  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; any communications that Serfilco may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock  
Director  
Office of Export Enforcement