

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Melvina Can Machinery Co.
60 Engineers Lane
Farmingdale, NY 11735

Attn: *Thomas Cahill*
President and Owner

Dear Mr. Cahill:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Melvina Can Machinery Co. of Farmingdale, New York, ("Melvina") has committed one violation of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that Melvina committed the following violation:

Charge 1 15 C.F.R. § 764.2(c): Attempted Export of Canning Machinery from the United States to Iran without the Required License

On or about February 10, 2005, Melvina violated the Regulations by attempting to export canning machinery, items subject to the Regulations³ and the Iranian Transactions Regulations ("ITR") of the Department of the Treasury's Office of Foreign Assets Control ("OFAC"),⁴ to Iran without the required U.S. Government authorization. Specifically, Melvina attempted to export one used Bliss Duplex Slitter, Model 5325; one used Dexter Feeder; and one used Angelus Seamer to Iran without obtaining the required authorization. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The charged violation occurred in 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2006 Regulations set forth the procedures that apply to this matter.

² 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000) ("IEEPA"). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

³ These items were classified as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

⁴ 31 C.F.R. Part 560 (2005).

OFAC authorization. No such authorization was obtained. In engaging in this activity, Melvina committed one violation of Section 764.2(c) of the Regulations.

* * * * *

Accordingly, Melvina is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and 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 \$11,000 per violation;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Melvina 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. If Melvina defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Melvina. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Melvina is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Melvina 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.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Melvina have a proposal to settle this case, Melvina 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, Melvina's answer must be filed in accordance with the instructions 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 Melvina's answer must be served on BIS at the following address:

⁵ 15 C.F.R. § 6.4(a)(4) (2005).

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

Thea D. R. Kendler is the attorney representing BIS in this case; any communications that Melvina may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement

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

.....
In the Matter of:)
)
Melvina Can Machinery Co.)
60 Engineers Lane)
Farmingdale, NY 11735)
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Respondent)
.....

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Melvina Can Machinery Co. ("Melvina"), 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 (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),²

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

.....
¹ The violation alleged to have been committed occurred during 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774) (2005). The 2006 Regulations establish the procedures that apply to this matter.

² 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

WHEREAS, BIS has issued a proposed charging letter to Melvina that alleged that Melvina committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(c): Attempted Export of Canning Machinery from the United States to Iran without the Required License

On or about February 10, 2005, Melvina violated the Regulations by attempting to export canning machinery, items subject to the Regulations³ and the Iranian Transactions Regulations ("ITR") of the Department of the Treasury's Office of Foreign Assets Control ("OFAC"),⁴ to Iran without the required U.S. Government authorization. Specifically, Melvina attempted to export one used Bliss Duplex Slitter, Model 5325; one used Dexter Feeder; and one used Angelus Seamer to Iran without obtaining the required authorization. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required OFAC authorization. No such authorization was obtained. In engaging in this activity, Melvina committed one violation of Section 764.2(c) of the Regulations.

WHEREAS, Melvina 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, Melvina 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, Melvina enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, Melvina neither admits nor denies the allegations contained in the proposed charging letter;

³ These items were classified as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

⁴ 31 C.F.R. Part 560 (2005).

WHEREAS, Melvina wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Melvina agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Melvina, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Melvina in complete settlement of the alleged violation of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
 - a. Melvina shall be assessed a civil penalty in the amount of \$6,000, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
 - b. The timely payment of the civil penalty 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 Melvina. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Melvina's export privileges for a period of one year from the date of imposition of the penalty.
3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Melvina 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 entered), 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 entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$6,000 civil penalty, BIS will not initiate any further administrative proceeding against Melvina in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, 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 entered, 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.

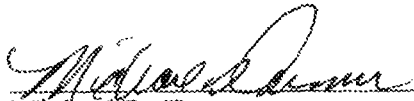
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which

will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

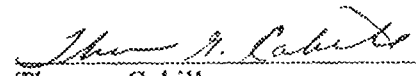
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

MELVINA CAN MACHINERY CO.



Michael D. Turner
Director
Office of Export Enforcement



Thomas Cahill
President and Owner

Date: 11/16/06

Date: 11/19/06

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

.....
In the Matter of:)
)
Melvina Can Machinery Co.)
60 Engineers Lane)
Farmingdale, NY 11735)
)
Respondent)
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ORDER RELATING TO MELVINA CAN MACHINERY CO.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Melvina Can Machinery Co. ("Melvina"), of its intention to initiate an administrative proceeding against Melvina pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the "Regulations"),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),² through issuance of a proposed charging letter to Melvina that alleged that Melvina committed one violation of the Regulations. Specifically, this charge is:

.....
¹ The violation alleged to have been committed occurred during 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774) (2005). The 2006 Regulations establish the procedures that apply to this matter.

² 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

**Charge 1 15 C.F.R. § 764.2(c): Attempted Export of Canning Machinery from
the United States to Iran without the Required License**

On or about February 10, 2005, Melvina violated the Regulations by attempting to export canning machinery, items subject to the Regulations³ and the Iranian Transactions Regulations ("ITR") of the Department of the Treasury's Office of Foreign Assets Control ("OFAC"),⁴ to Iran without the required U.S. Government authorization. Specifically, Melvina attempted to export one used Bliss Duplex Slitter, Model 5325; one used Dexter Feeder; and one used Angelus Seamer to Iran without obtaining the required authorization. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required OFAC authorization. No such authorization was obtained. In engaging in this activity, Melvina committed one violation of Section 764.2(c) of the Regulations.

WHEREAS, BIS and Melvina 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, that a civil penalty of \$6,000 is assessed against Melvina, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. 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 payment is not made by the due date specified herein, Melvina 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.

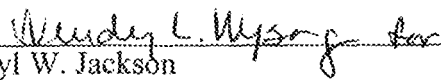
³ These items were classified as EAR99, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

⁴ 31 C.F.R. Part 560 (2005).

THIRD, that the timely payment of the civil penalty 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 Melvina. Accordingly, if Melvina should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Melvina's export privileges for a period of one year from the date of entry of this Order.

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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 15th day of November, 2006.