

**DRAFT**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**  
Washington, D.C. 20230

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

A.N. Deringer, Inc.  
64 North Main Street, #66  
Saint Albans, VT 05478

*Attn: Wayne Burl  
President*

Dear Mr. Burl:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that A.N. Deringer, of Saint Albans, VT, (hereafter "Deringer") has committed three violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that Deringer committed the following violations:

**Charge 1 15 C.F.R. §764.2(b) -- Causing, aiding, or abetting a violation**

On or about July 28, 2004, Deringer's Valley Stream, NY branch office caused, aided, or abetted the doing of an act prohibited by the Regulations. Specifically, Deringer caused, aided and/or abetted the export of copier toner, an item subject to the Regulations<sup>3</sup> and the Iranian Transactions Regulations,<sup>4</sup> to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, no person may export items subject to both the Regulations and the Iranian Transactions Regulations without authorization from the U.S. Department of Treasury's Office of Foreign Assets

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The alleged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 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 13,222 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 3, 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)). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

<sup>3</sup> These items were classified as EAR99.

<sup>4</sup> 31 C.F.R. Part 560 (2004).



Control (OFAC). Deringer, a freight forwarder, caused, aided, and/or abetted in a prohibited act by facilitating the export of the copier toner from the United States which had not been authorized by OFAC. In so doing, Deringer committed one violation of Section 764.2(b) of the Regulations.

**Charge 2 15 C.F.R. §764.2(e) – Acting with knowledge of a violation**

In connection with charge one above, on or about July 28, 2004, Deringer's Valley Stream Branch Office violated the Regulations by storing or transferring items subject to the Regulations that were to be exported from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Deringer stored, and/or transferred copier toner, which was subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran without the required U.S. Government authorization. Deringer personnel had knowledge that U.S. products could not be sold to sanctioned countries, including Iran. Deringer shipping personnel were aware of the Regulations and reviewed the Regulations prior to exporting the copier toner. In so doing, Deringer committed one violation of Section 764.2(e) of the Regulations.

**Charge 3 15 C.F.R. §764.2(g)(ii) – Misrepresentation and Concealment of Facts**

On or about July 28, 2004, Deringer made a false and/or misleading representation to the U.S. government in connection with the preparation, submission, issuance, use, or maintenance of an export control document. Deringer filed a Shipper's Export Declaration, an export control document as defined in Part 772 of the Regulations, indicating that no license was required for the shipment. This representation was false and/or misleading as a license was required for the export under Section 746.7 of the Regulations. In so doing, Deringer committed one violation of Section 764.2(g)(ii) of the Regulations.

\* \* \* \* \*

Accordingly, Deringer 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 up to \$11,000 per violation;<sup>5</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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<sup>5</sup> See 15 C.F.R. § 6.4(a)(4) (2004).

If Deringer 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 (2006). If Deringer defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Deringer. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Deringer 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 (2006). Deringer is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2006).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2006). Should Deringer have a proposal to settle this case, Deringer's representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Deringer'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 Deringer's answer must be served on BIS at the following address:

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

Melissa Mannino is the attorney representing BIS in this case; any communications that Deringer may wish to have concerning this matter should occur through her. Ms. Mannino 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

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In the Matter of: )  
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A.N. Deringer, Inc. )  
64-66 North Main Street )  
P.O. Box 1309 )  
St. Albans, VT 05478 )  
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Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between A.N. Deringer, Inc. (“Deringer”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).<sup>2</sup>

.....  
<sup>1</sup> The charged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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 3, 2006 (71 Fed. Reg. 44,551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

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

WHEREAS, BIS has issued a proposed charging letter to Deringer that alleged that Deringer committed three violations of the Regulations, specifically:

**Charge 1 15 C.F.R. §764.2(b) – Causing, aiding, or abetting a violation**

On or about July 28, 2004, Deringer's Valley Stream, NY branch office caused, aided, or abetted the doing of an act prohibited by the Regulations. Specifically, Deringer caused, aided and/or abetted the export of copier toner, an item subject to the Regulations<sup>3</sup> and the Iranian Transactions Regulations,<sup>4</sup> to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, no person may export items subject to both the Regulations and the Iranian Transactions Regulations without authorization from the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC). Deringer, a freight forwarder, caused, aided, and/or abetted in a prohibited act by facilitating the export of the copier toner from the United States which had not been authorized by OFAC. In so doing, Deringer committed one violation of Section 764.2(b) of the Regulations.

**Charge 2 15 C.F.R. §764.2(e) – Acting with knowledge of a violation**

In connection with charge one above, on or about July 28, 2004, Deringer's Valley Stream Branch Office violated the Regulations by storing or transferring items subject to the Regulations that were to be exported from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Deringer stored, and/or transferred copier toner, which was subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran without the required U.S. Government authorization. Deringer personnel had knowledge that U.S. products could not be sold to sanctioned countries, including Iran. Deringer shipping personnel were aware of the Regulations and reviewed the Regulations prior to exporting the copier toner. In so doing, Deringer committed one violation of Section 764.2(e) of the Regulations.

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<sup>3</sup> These items were classified as EAR99.

<sup>4</sup> 31 C.F.R. Part 560 (2004).

**Charge 3 - 15 C.F.R. §764.2(g)(ii) – Misrepresentation and Concealment of Facts**

On or about July 28, 2004, Deringer made a false and/or misleading representation to the U.S. government in connection with the preparation, submission, issuance, use, or maintenance of an export control document. Deringer filed a Shipper's Export Declaration, an export control document as defined in Part 772 of the Regulations, indicating that no license was required for the shipment. This representation was false and/or misleading as a license was required for the export under Section 746.7 of the Regulations. In so doing, Deringer committed one violation of Section 764.2(g)(ii) of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Deringer, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Deringer in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
  - a. Deringer shall be assessed a civil penalty in the amount of \$21,120 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 Deringer. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Deringer's export privileges under the Regulations 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, Deringer 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; and (c) 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 \$21,120 civil penalty, BIS will not initiate any further administrative proceeding against Deringer 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.

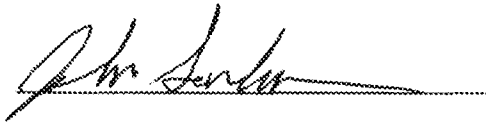
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

8. This Agreement shall become binding on BIS 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



John Sonderman  
Acting Director  
Office of Export Enforcement

Date: 2/20/2007

A.N. DERINGER, INC.



Jacob Holzscheiter  
President and CEO  
A.N. Deringer, Inc.

Date: 2/13/07

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

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In the Matter of: )  
)  
A.N. Deringer, Inc. )  
64-66 North Main Street )  
P.O. Box 1309 )  
St. Albans, VT 05478 )  
)  
)  
)  
..... Respondent )

ORDER RELATING TO A.N. DERINGER, INC.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified A.N. Deringer, Inc. ("Deringer"), of its intention to initiate an administrative proceeding against Deringer pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) ("Regulations"),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup> by issuing a proposed charging letter to Deringer that alleged that Deringer committed three violations of the Regulations. Specifically, the charges are:

.....  
<sup>1</sup> The charged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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)), as extended by the Notice of August 3, 2006 (71 Fed. Reg. 44,551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

**Charge 1 15 C.F.R. §764.2(b) – Causing, aiding, or abetting a violation**

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WHEREAS, BIS and Deringer have entered into a Settlement Agreement pursuant to

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<sup>3</sup> These items were classified as EAR99.

<sup>4</sup> 31 C.F.R. Part 560 (2004).

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:

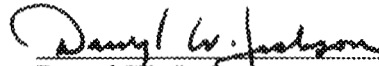
FIRST, that a civil penalty of \$21,120 is assessed against Deringer, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Deringer 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 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 Deringer. Accordingly, if Deringer should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Deringer's export privileges under the Regulations 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 22nd day of February 2007.