

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Helka GmbH
Hainerpfad 3
63128 Dietzenbach
Germany

Attention: Edda Stemmler
Managing Director

Dear Ms. Stemmler:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Helka GmbH (“Helka”) violated the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979 (the “Act”),² on three occasions. Specifically, BIS charges that Helka committed the following violations:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred in 1997. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997). They are substantially the same as the 2002 version of the Regulations which govern the procedural aspects of this case.

² 50 U.S.C. app. 2401- 2420 (1994 & Supp. V. 1999). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (1994 & Supp. V 1999)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

Charge 1: Engaging in Prohibited Conduct; EAR § 764.2(a)

Between in or about August 1997 and February 1998, Helka exported an “Intergraph PhotoScan-TD” system, containing items subject to the Export Administration Regulations, and classified as Export Control Classification Numbers (“ECCN”) 4A994 and 5D002 from the United States to Iran via Germany without the license required by Section 746.7(2)(i) of the Regulations. In doing so, Helka violated Section 764.2(a) of the Regulations.

Charge 2: Acting with Knowledge of a Violation; EAR § 764.2(e)

Between in or about August 1997 and February 1998, Helka forwarded the goods described in Charge 1 to Iran with the knowledge that a violation of the Regulations was about to occur, that is that the goods would be exported to Iran without the export license required by Section 746.7(2)(i) of the Regulations. In doing so, Helka violated Section 764.2(e) of the Regulations.

Charge 3: Solicitation; EAR § 764.2(c)

In or about February 1998, Helka solicited Intergraph (Deutschland) GmbH to service the goods described in Charge 1, which had been exported to Iran in violation of the Regulations. In soliciting Intergraph to service the goods knowing that they had been illegally exported to Iran, Helka solicited the violation of Section 764.2(e) of the Regulations, acting with knowledge of a violation. In doing so, Helka violated Section 764.2(c) of the Regulations.

Accordingly, Helka 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:

A civil penalty of up to \$11,000 for each violation³;

A denial of export privileges; and

Exclusion from practice before BIS.

If Helka 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. (Regulations, Sections 766.6 and 766.7). If Helka defaults, the Administrative Law Judge may find the charges alleged

³ Pursuant to the Federal Civil Penalties Adjustment Act of 1990, (28 U.S.C. 2461, note (1994 & Supp. V 1999)) and 15 C.F.R. § 6.4(a)(2), the maximum penalty for each violation committed after October 23, 1996 and before November 1, 2000 is \$11,000.

Helka
Charging Letter
Page 3

in this letter are true without hearing or further notice to Helka. The Under Secretary for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter. Helka is further notified that it is entitled to an agency hearing on the record if Helka files a written demand for one with its answer. (Regulations, Section 766.6). Helka is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

The U.S. Coast Guard provides administrative law judge services in connection with the matters set forth in this letter. Accordingly, Helka's answer should be filed pursuant to 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

A copy of Helka's answer must be served on BIS at:

Chief Counsel for Industry and Security
Attention: Peter R. Klason
Room H-3839
U.S. Department of Commerce
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Peter R. Klason is the attorney representing the Bureau of Industry and Security on this case. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

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

In the Matter of:)
)
Helka GmbH) Docket No. 02-BIS-13
Hainerpfad 3)
63128 Dietzenbach)
Germany)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Helka GmbH (“Helka”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred in 1997 and 1998. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997-1998). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 7, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), has continued the Regulations in effect under the IEEPA.

E.S.A.

WHEREAS, BIS has initiated an administrative proceeding against Helka, pursuant to the Act and the Regulations;

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

1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct:*

Between in or about August 1997 and February 1998, Helka exported an “Intergraph PhotoScan-TD” system, containing items subject to the Regulations, and classified as Export Control Classification Numbers (“ECCN”) 4A994 and 5D002 from the United States to Iran via Germany without the license required by Section 746.7(2)(i) of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation:*

Between in or about August 1997 and February 1998, Helka forwarded the goods described in Charge 1 to Iran with the knowledge that a violation of the Regulations was about to occur, that is that the goods would be exported to Iran without the export license required by Section 746.7(2)(i) of the Regulations.

3. *One Violation of 15 C.F.R. § 764.2(c) - Solicitation:*

In or about February 1998, Helka solicited Intergraph (Deutschland) GmbH to service the goods described in Charge 1, which had been exported to Iran in violation of the Regulations. In soliciting Intergraph to service the goods knowing that they had been illegally exported to Iran, Helka solicited the violation of Section 764.2(e) of the Regulations, acting with knowledge of a violation.

E. SA.

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

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Helka, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanction shall be imposed against Helka in complete settlement of the violations of the Regulations set forth in the charging letter:

E.S.A.

- a. Helka shall be assessed a civil penalty in the amount of \$15,000 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, License Exception, permission, or privilege granted, or to be granted, to Helka. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Helka'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, Helka 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 the 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 \$15,000 civil penalty, BIS will not initiate any further administrative proceeding against Helka in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

E. SA.

5. BIS will make the 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(b) 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 United States Government with respect to the facts and circumstances addressed herein.

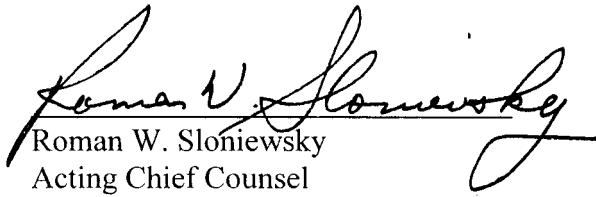
8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.


E. SA.

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.

OFFICE OF CHIEF COUNSEL FOR
INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

HELKA GMBH


Roman W. Sloniewsky
Acting Chief Counsel



Edda Stemmler
Managing Director

Date: JUNE 15, 2004

Date: June 8th, 2004

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

In the Matter of:)
)
Helka GmbH) Docket No. 02-BIS-13
Hainerpfad 3)
63128 Dietzenbach)
Germany)
)
Respondent)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having initiated an administrative proceeding against Helka GmbH (“Helka”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² based on the charging letter issued to Helka that alleged that Helka committed three violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct:*

Between in or about August 1997 and February 1998, Helka exported an

¹ The violations charged occurred in 1997 and 1998. The Regulations governing the violations are codified at 15 C.F.R. Parts 730-774 (1997-1998). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 7, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), has continued the Regulations in effect under the IEEPA.

“Intergraph PhotoScan-TD” system, containing items subject to the Regulations, and classified as Export Control Classification Numbers (“ECCN”) 4A994 and 5D002 from the United States to Iran via Germany without the license required by Section 746.7(2)(i) of the Regulations.

2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation:*

Between in or about August 1997 and February 1998, Helka forwarded the goods described in Charge 1 to Iran with the knowledge that a violation of the Regulations was about to occur, that is that the goods would be exported to Iran without the export license required by Section 746.7(2)(i) of the Regulations.

3. *One Violation of 15 C.F.R. § 764.2(e) - Solicitation:*

In or about February 1998, Helka solicited Intergraph (Deutschland) GmbH to service the goods described in Charge 1, which had been exported to Iran in violation of the Regulations. In soliciting Intergraph to service the goods knowing that they had been illegally exported to Iran, Helka solicited the violation of Section 764.2(e) of the Regulations, acting with knowledge of a violation.

BIS and Helka having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$15,000 is assessed against Helka, 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.

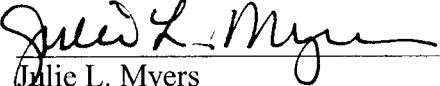
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Helka will be assessed, in addition 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 Helka. Accordingly, if Helka should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Helka's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that a copy of this Order shall be delivered to the Honorable Walter J. Brudzinski, Administrative Law Judge, U.S. Coast Guard, Administrative Law Judge Office, Room 219, 1 South Street, Battery Park Building, New York, New York, 10004-1466; and the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

FIFTH, that the charging letter, the Settlement Agreement, this Order, and the record of the proceedings as described in Section 766.20 of the Regulations shall be made available to the public.

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



Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 24th day of June 2004.