

Signed at Washington, DC, this 12th day of February 2007.

**David M. Spooner,**

*Assistant Secretary of Commerce for Import Administration.*

*Alternate Chairman Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. E7-3428 Filed 2-27-07; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 05-BIS-10]

#### **In the Matter of: William Kovacs, 24 Georgetown Road, Boxford, MA 01921, Respondent; Final Decision and Order**

This matter is before me upon a Recommended Decision and Order of an Administrative Law Judge ("ALJ"), as further described below.

In a charging letter filed on June 28, 2005, the Bureau of Industry and Security ("BIS") alleged that Respondent, William Kovacs, committed six violations of the Export Administration Regulations ("Regulations")<sup>1</sup>, issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act")<sup>2</sup> related to the illegal export of an industrial furnace to the Beijing Research Institute of Materials and Technology ("BRIMT") in the People's Republic of China. The export of the furnace, which took place in 1999, required a license because the exporter, Elatec (Kovacs' company), knew or had reason to know at the time of the export that the item would be

<sup>1</sup> The charged violations occurred from 1998, 1999 and 2001. The Regulations governing the violations at issue are found in the 1998, 1999 and 2001 versions of the Code of Federal Regulations (15 CFR parts 730-774 (1998-1999, 2001)). Actions taken during this administrative enforcement proceeding are governed by the Regulations in effect at the time such actions take place.

<sup>2</sup> 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 CFR, 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 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006, (71 FR 44,551 (August 7, 2006)), has continued the Regulations in effect under IEEPA.

used in the design, development, production, or use of missiles in or by China, as described in 744.3(a)(2) of the Regulations. A license application submitted for the export was explicitly denied by BIS before the export occurred, and no license for the export was ever obtained.

The charging letter alleged that Kovacs sold, transferred, forwarded and/or disposed of the furnace with knowledge that a violation would subsequently occur, that Kovacs conspired to export the furnace without a license, that Kovacs caused the furnace to be exported without a license, and that Kovacs took actions with the intent to evade the Regulations in connection with the furnace export. Further, the charging letter alleged that Kovacs made two false statements to the U.S. Government during the investigation of the illegal export.

In accordance with 766.3(b)(1) of the Regulations, on June 28, 2005, BIS mailed the notice of issuance of the charging letter by certified mail to Kovacs at his last known address. The notice of issuance of a charging letter was received and signed for by Kovacs on July 5, 2005. To date, Kovacs has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with 766.7 of the Regulations, BIS filed a Motion for Default Order on January 11, 2007. This Motion for Default Order recommended that Kovacs be denied export privileges under the Regulations for a period of 5 years and be assessed a monetary penalty of \$66,000. Under 766.7(a) of the Regulations, "[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear," and "on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter." Based upon the record before him, the ALJ held Kovacs in default.

On January 26, 2007, the ALJ issued a Recommended Decision and Order in which he found that Kovacs committed one violation each of § 764.2(b), (d), (e) and (h) of the Regulations, and two violations of § 764.2(g) of the Regulations. The ALJ also recommended the penalty of denial of Kovacs' export privileges for five years and a monetary penalty of \$66,000.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under § 766.22 of the Regulations.

I find that the record supports the ALJ's findings of fact and conclusions of

law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations and the facts of this case, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law contained in the ALJ's Recommended Decision and Order.

*Accordingly, it is therefore ordered,*

*First*, that a civil penalty of \$66,000 is assessed against Kovacs which shall be paid to the 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, Kovacs will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as further described in the attached Notice.

*Third*, that, for a period of five years from the date of this Order, William Kovacs, 24 Georgetown Road, Boxford, MA 01921, and when acting for or on behalf of Kovacs, his representatives, agents, assigns and employees (hereinafter collectively referred to as the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

*Fourth*, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

*Fifth*, that, after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

*Sixth*, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

*Seventh*, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

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

Dated: February 22, 2007.

**Mark Foulon,**

*Acting Under Secretary of Commerce for Industry and Security.*

Attachments

#### Notice

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), and the Federal Claims Collection Standards (31 CFR parts 900–904 (2002)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed respondent is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. 3717 and 31 CFR 901.9.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of 6 percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. 3717 and 31 CFR 901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with § 901.2(b) of the Federal Claims Collection Standards (31 CFR 901.2(b)).

#### Instructions for Payment of Civil Penalty

1. The civil penalty check should be made payable to: U.S. Department of Commerce.

2. The check should be mailed to: U.S. Department of Commerce, Bureau of Industry and Security, Room H-6622, 14th Street and Constitution Avenue, NW., Washington, DC. Attn: Jennifer Kuo.

#### Recommended Decision and Order

On June 28, 2005, the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce, issued a Charging Letter initiating this administrative enforcement proceeding against William Kovacs (“Kovacs”). The Charging Letter alleged that Kovacs committed six violations of the Export Administration Regulations (currently codified at 15 CFR parts 730–774 (2006)) (“Regulations”),<sup>1</sup> issued under the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420 (2000)) (“Act”).<sup>2</sup> In accordance with § 766.7 of Regulations, BIS moved for the issuance of an Order of Default against Kovacs for his failure to file an answer to the allegations in the Charging letter issued by BIS within the time period required by law.

#### A. Legal Authority for Issuing an Order of Default

Section 766.7 of the Regulations states that BIS may file a motion for an order of default if a respondent fails to file a timely answer to a charging letter. That section, entitled Default, provides in pertinent part:

Failure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing appropriate sanctions.

15 CFR 766.7 (2005).

Pursuant to § 766.6 of the Regulations, a respondent must file an answer to the charging letter “within 30 days after being served with notice of the issuance of the charging letter \* \* \*” initiating the proceeding.

<sup>1</sup> The charged violations occurred during 1998, 1999 and 2001. The Regulations governing the violations at issue are found in the 1998, 1999 and 2001 versions of the Code of Federal Regulations (15 CFR parts 730–774 (1998–1999, 2001)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12,924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000, 3 CFR, 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 13,222 of August 17, 2001, 3 CFR, 2001 Comp. 783 (2002), as extended by the Notice of August 3, 2006, 71 FR 44551 (Aug. 7, 2006), has continued the Regulations in effect under the IEEPA.

*B. Service of the Notice of Issuance of Charging Letter*

In the case, BIS served notice of issuance of the Charging Letter in accordance with § 766.3(b)(1) of the Regulations when it sent a copy of the Charging Letter by certified mail to Kovacs at his last known address on June 28, 2005. The notice of issuance of a charging letter was received and signed for by Kovacs on July 5, 2005.

*C. Summary of Violations Charged*

The Charging Letter issued by BIS included a total of six (6) charges related to the illegal export of a manufacturing furnace to the Beijing Research Institute of Materials and Technology (“BRIMT”) in the People’s Republic of China. The export of the furnace, which took place in 1999, required a license because the exporter, Elatec (Kovacs’ company), knew or had reason to know at the time of the export that the item would be used in the design, development, production, or use of missiles in or by China, as described in § 744.39a(2) of the Regulations. A license application submitted for the export was explicitly denied by BIS before the export occurred, and no license for the export was ever obtained.

The Charging Letter alleged that Kovacs sold, transferred, forwarded and/or disposed of the furnace with knowledge that a violation would subsequently occur, that Kovacs conspired to export the furnace without a license, that Kovacs caused the furnace to be exported without a license, and that Kovacs took actions with the intent to evade the Regulations

in connection with the furnace export. Furthermore, the Charging Letter alleged that Kovacs made two false statements to the U.S. Government during the investigation of the illegal export.

*D. Penalty Recommendation*

[Redacted Section]

*E. Conclusion*

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in § 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 CFR 766.22(c).

Dated: January 26, 2007.

The Honorable Joseph N. Ingolia,  
Chief Administrative Law Judge.

[FR Doc. 07–905 Filed 2–27–07; 8:45 am]

**BILLING CODE 3510–DT–M**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Antidumping and Countervailing Duty Administrative Reviews**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) has received requests

to conduct administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates. In accordance with the Department’s regulations, we are initiating those administrative reviews.

**EFFECTIVE DATE:** February 28, 2007.

**FOR FURTHER INFORMATION CONTACT:** Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4697.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2004), for administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates. With respect to the antidumping duty order on Wooden Bedroom Furniture from the People’s Republic of China, the initiation of the antidumping duty administrative review for that case is being published in a separate initiation notice.

**Initiation of Reviews:**

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than January 31, 2008.

Antidumping Duty Proceedings	Period to be Reviewed
THE PEOPLE’S REPUBLIC OF CHINA: Folding Gift Boxes <sup>1</sup> . A–570–866 .....	1/1/06 - 12/31/06
Red Point Paper Products Co., Ltd./Red Point Paper Products. Factory (Dongguan Shilong)/Silver Team Trading Ltd..	
THE PEOPLE’S REPUBLIC OF CHINA: Wooden Bedroom Furniture <sup>2</sup> . A–570–890 .....	1/1/06 - 12/31/06
<b>Countervailing Duty Proceedings.</b>	
None..	
<b>Suspension Agreements.</b>	
RUSSIA: Certain Cut-to-Length Carbon Steel Plate. A–821–808 .....	1/1/06 - 12/31/06
Joint Stock Company Severstal.	

<sup>1</sup> If one of the above named companies does not qualify for a separate rate, aliother exporters of Folding Gift Boxes from the People’s Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

<sup>2</sup> The administrative review for the above referenced case will be published in a separate initiation notice.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a

determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the

notice of initiation of the review, will determine, consistent with *FAG Italia v. United States*, 291 F.3d 806 (Fed. Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the