

notification procedure requires exporters to complete a form BIS-748P (approved under OMB Control No. 0694-0088) and after eleven days if no U.S. Government agency objects, the exporter is free to export the items.

## II. Method of Collection

Paper format.

## III. Data

OMB Control Number: 0694-0123.

Form Number(s): BIS-748P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 215.

Estimated Time Per Response: 58 minutes.

Estimated Total Annual Burden Hours: 208.

Estimated Total Annual Cost to Public: \$0.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 2, 2008.

### Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-10083 Filed 5-6-08; 8:45 am]

BILLING CODE 3510-33-P

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 05-BIS-08]

#### In the Matter of: Kabba & Amir Investments, Inc., d.b.a. International Freight Forwarders, 286 Attwell Drive #16, Toronto, ON M9W 5B2, Canada, Respondent; Final Decision and Order

This matter is before me upon a Recommended Decision and Order ("RDO") 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 Kabba & Amir Investments, Inc., d/b/a International Freight Forwarders ("IFF"), committed two violations of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2008) ("Regulations")), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act"), 1 stemming from its involvement in an attempted unlicensed export of items subject to the Regulations from the United States to Cuba. Charge One of the charging letter alleged as follows:

#### Charge 1 15 CFR 764.2(b)—Aiding and abetting an attempted violation of the Regulations.

On or about June 29, 2000, IFF aided and abetted the doing of an act prohibited by the Regulations when it took possession of a shipment of X-Ray Film Processors, items subject to the Regulations, in the United States for export to Cuba via Canada. Under section 746.2 of the Regulations, a BIS export license was required for this shipment, but no such license was obtained. In aiding and abetting the attempted export, IFF committed one violation of section 764.2((b))2 of the Regulations.

June 28, 2005 Charging Letter, at 1.

On November 6, 2007, BIS filed a motion for summary decision against IFF as to Charge One. During the briefing of this motion, BIS withdrew the only other charged violation, Charge Two, which alleged that IFF had conspired to violate the Regulations. See § 7663(a) of the Regulations ("BIS may unilaterally withdraw charging letters at any time, by notifying the respondent and the administrative law judge."). The ALJ entered an order of dismissal as to Charge Two on January 29, 2008, consistent with BIS's notice of withdrawal of that charge.

On April 2, 2008, based on the record before him, the ALJ issued an RDO in which he determined that BIS was entitled to summary decision as to

Charge One, finding that IFF had committed one violation of § 764.2(b) when it aided and abetted an attempted unlicensed export of items subject to the Regulations to Cuba, via Canada. The ALJ also recommended, following consideration of the record, that IFF be assessed a monetary penalty of \$6,000.00 and a denial of export privileges for three years. The ALJ further recommended that the denial of export privileges be suspended for a period of three years as long as IFF pays the monetary penalty of \$6,000.00 within thirty days of the final Decision and Order and does not commit any further violations of the Act or Regulations within three years of the issuance of the final Decision and Order.

The RDO, 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. In making this finding, I have determined that the ALJ made at least an implied finding that IFF took constructive possession of the items in question when it had the items transported by truck to Canada, arranged for them to then be transported to Cuba by plane, and took other actions to effect their forwarding and the completion of their unlicensed export to Cuba. Such a finding is entirely consistent with Charge One of the charging letter and the RDO. See, e.g., RDO at 5-6 (making finding based on uncontroverted documentary exhibits submitted by BIS in support of its Motion for Summary Decision, including Respondent's Answer, that IFF had, *inter alia*, agreed to forward the items from the United States to Cuba, had the items trucked to Canada, and arranged for their further transport by plane to Cuba prior to the items being seized by Canada Customs); RDO at 13 ("BIS established by documentary evidence and IFF's admissions that there exists no genuine issues of material fact that Respondent violated 15 CFR 764.2(b) by aiding and abetting in the attempted export of X-Ray film Processors (classified as EAR 99) from the United States to Cuba, via Canada on or about June 29, 2000.")

I also find that the penalty recommended by the ALJ based upon his review of the entire record is appropriate, given the nature of the violations, the facts of this case, and the importance of deterring future unauthorized exports or attempted exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the RDO.

Accordingly, *it is therefore ordered*, First, that a civil penalty of \$6,000.00 is assessed against Kabba & Amir Investments, Inc., d/b/a International Freight Forwarders, which shall be paid to the U.S. Department of Commerce within (30) thirty days from the date of entry of this Order.

Second, 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, Kabba & Amir Investments, Inc., d/b/a International Freight Forwarders, will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and administrative charge.

Third, for a period of three (3) years from the date that this Order is published in the **Federal Register**, Kabba & Amir Investments, Inc., d/b/a International Freight Forwarders, 286 Attwell Drive #16, Toronto, ON M9W 5B2, Canada (“IFF”), its successors or assigns, and when acting for or on behalf of IFF, its representatives, agents, officers or employees (hereinafter collectively referred to as “Denied Person”) may not participate, directly or indirectly, 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. Benefiting 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 which 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 the 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, as authorized by § 766.17(c) of the Regulations, the denial period set forth above shall be suspended in its entirety, and shall thereafter be waived, provided that: (1) Within thirty days of the effective date of the Decision and Order, IFF pays the monetary penalty of \$6,000.00 in full, and (2) during the period of the suspension IFF commits no further violations of the Act or Regulations.

Eighth, that the final Decision and Order shall be served on IFF 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 also be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: April 30, 2008.

**Mario Mancuso**,

*Under Secretary of Commerce for Industry and Security.*

1. 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 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 15, 2007 (72 FR 46137 (August 16, 2007)), has continued the Regulations in effect under IEEPA.

2. Due to a typographical error, BIS referred to section 764.2(d) in the last sentence of the original Charge One. This typographical error was later corrected by BIS, as noted by the ALJ in fn. 4 of the RDO.

3. The sanction recommended by the ALJ also is consistent with the sanction proposed by BIS, which based its request on the facts and circumstances of the case as a whole.

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 05–BIS–08]

**Recommended Decision and Order; In the Matter of: Kabba & Amir Investments, Inc., d.b.a. International Freight Forwarders, 286 Attwell Drive #16, Toronto, ON M9W 5B2, Canada; Respondent(s)**

Issued: April 2, 2008

*Issued By:* Hon. Michael J. Devine Presiding.

*Appearances:* For the Bureau of Industry and Security: Charles G. Wall, Esq., Joseph V. Jest, Esq., John T. Masterson, Office of Chief Counsel for Industry & Security, U.S. Department of Commerce, Room H–3839,