

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Gebruder Weiss Ges. m.b.H.  
P.O. Box 2  
Air Cargo Terminal  
A-1300 Vienna Airport  
Vienna, Austria

Attn: Mr. Ernst Gatterbauer

Dear Mr. Gatterbauer:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Gebruder Weiss Ges. m.b.H. (“Gebruder”) of Vienna, Austria, has committed one violation of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the “Act”).<sup>2</sup> Specifically, BIS charges that Gebruder committed the following violation:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The charged violation occurred in 1999. The Regulations governing the violation at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The Regulations define the violation that BIS has charged and establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). 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 by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), continues 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      15 C.F.R. § 764.2(b) - Aiding and Abetting the Export of Thyroglobulin Testing Kits to Iran Without the Required Authorization**

On or about January 16, 1999, Gebruder shipped thyroglobulin testing kits from Austria to Iran. These testing kits had been shipped from the United States to Austria on or about January 6, 1999 and were destined for Iran. Accordingly, Gebruder aided and abetted the export of items that were subject to the Regulations (EAR99) and to the Iranian Transaction Regulations, from the United States through Austria to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of the Treasury, in violation of Section 746.7 of the Regulations. In doing so, Gebruder violated Section 764.2(b) of the Regulations.

The transaction is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference.

Accordingly, Gebruder is hereby notified that an administrative proceeding is instituted against it pursuant to 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;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Gebruder fails to answer the charge 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 Gebruder defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to Gebruder. *See id.* The Under Secretary for Industry and Security may then impose up to the maximum penalty on the charge in this letter. *See id.*

Gebruder is further notified that it is entitled to an agency hearing on the record if Gebruder files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Gebruder 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 you have a proposal to settle this case, your or your representative should transmit it to me through the attorney representing BIS named below.

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<sup>3</sup> *See* 15 C.F.R. § 6.4(a)(2).

Gebruder  
Charging Letter  
Page 3 of 3

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

Chief Counsel for Industry and Security  
Attention: Christine Lee  
Room H-3839  
United States Department of Commerce  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Christine Lee is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosure: Schedule A

**SCHEDULE OF VIOLATION  
FOR  
GEBRUDER WEISS GES. M.B.H.**

<b>Charge No.</b>	<b>Export Date (on or about)</b>	<b>Commodity</b>	<b>Air Waybill No./ Bill of Lading No.</b>	<b>Invoice No.</b>	<b>Destination</b>
1	1/06/99	THYROGLOBULIN TESTING KITS	020 8387 7776 096-9181 8101	0090848-IN	Iran

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

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In the Matter of: )  
)  
Gebruder Weiss Ges. m.b.H. )  
P.O. Box 2 ) Docket No. 03-BIS-16  
Air Cargo Terminal )  
A-1300 Vienna Airport )  
Vienna, Austria )  
)  
Respondent. )  
\_\_\_\_\_)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Gebruder Weiss Ges. m.b.H. (“Gebruder Weiss”), 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 (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“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>

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<sup>1</sup> The charged violation occurred in 1999. The Regulations governing the violation at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2004 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 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.

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

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

1. *One Violation of 15 C.F.R. § 764.2(b) - Aiding and Abetting the Export of Thyroglobulin Testing Kits to Iran Without the Required Authorization:* On or about January 16, 1999, Gebruder Weiss shipped thyroglobulin testing kits from Austria to Iran. These testing kits had been shipped from the United States to Austria on or about January 6, 1999 and were destined for Iran. Accordingly, Gebruder Weiss aided and abetted the export of items that were subject to the Regulations (EAR99) and to the Iranian Transactions Regulations, from the United States through Austria to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of the Treasury, in violation of Section 746.7 of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Gebruder Weiss, under the Regulations, in connection with the matters alleged in the charging letter.

2. The following sanction shall be imposed against Gebruder Weiss in complete settlement of the violation of the Regulations set forth in the charging letter:

- a. Gebruder Weiss shall be assessed a civil penalty in the amount of \$6,000 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 Gebruder

Weiss. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Gebruder Weiss'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, Gebruder Weiss 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 \$6,000 civil penalty, BIS will not initiate any further administrative proceeding against Gebruder Weiss in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. BIS will make the charging letter, this Agreement, the Order, if entered, and the record of the case as defined in Section 766.20 of the Regulations 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.

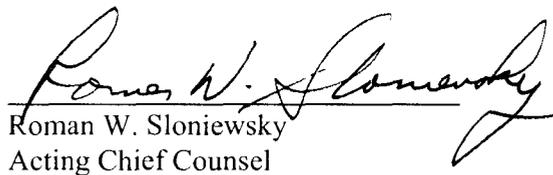
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

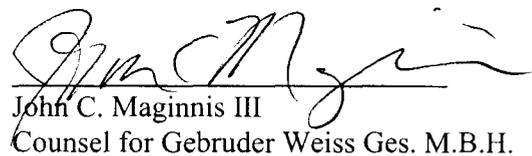
8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

GEBRUDER WEISS GES. M.B.H.

  
Roman W. Sloniewsky  
Acting Chief Counsel

  
John C. Maginnis III  
Counsel for Gebruder Weiss Ges. M.B.H.

Date: 7/20/04

Date: 7/15/04

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

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In the Matter of: )  
)  
Gebruder Weiss Ges. m.b.H. )  
P.O. Box 2 ) Docket No. 03-BIS-16  
Air Cargo Terminal )  
A-1300 Vienna Airport )  
Vienna, Austria )  
)  
Respondent. )  
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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having initiated an administrative proceeding against Gebruder Weiss Ges. m.b.H. (“Gebruder Weiss”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004) (“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> based on the charging letter issued to Gebruder Weiss that alleged that Gebruder Weiss committed one violation of the Regulations. Specifically, the charge is:

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<sup>1</sup> The charged violation occurred in 1999. The Regulations governing the violation at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2004 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 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.

1. *One Violation of 15 C.F.R. § 764.2(b) - Aiding and Abetting the Export of Thyroglobulin Testing Kits to Iran Without the Required Authorization:* On or about January 16, 1999, Gebruder Weiss shipped thyroglobulin testing kits from Austria to Iran. These testing kits had been shipped from the United States to Austria on or about January 6, 1999 and were destined for Iran. Accordingly, Gebruder Weiss aided and abetted the export of items that were subject to the Regulations (EAR99) and to the Iranian Transactions Regulations, from the United States through Austria to Iran, without prior authorization from the Office of Foreign Assets Control of the U.S. Department of the Treasury, in violation of Section 746.7 of the Regulations.

BIS and Gebruder Weiss 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 \$6,000 is assessed against Gebruder Weiss 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.

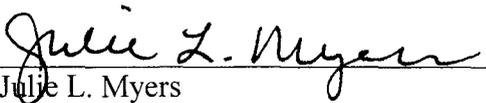
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Gebruder Weiss will be assessed, 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 Gebruder Weiss. Accordingly, if Gebruder Weiss should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Gebruder Weiss'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 United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying them 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 case as defined 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 12<sup>th</sup> day of August 2004.