

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
NF&M INTERNATIONAL, INC.)
125 Jericho Turnpike)
Jericho, New York 11753)
)
Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between NF&M International, Inc. (NF&M) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act).²

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), has

¹ The alleged violations occurred in 1991, 1992 and 1993. The Regulations governing the violations at issue are found in the 1991, 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991, 1992 and 1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, currently codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Settlement Agreement.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).

notified NF&M of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on 33 separate occasions between on or about September 29, 1991 and on or about August 11, 1993, NF&M exported titanium alloy products from the United States to Australia, Austria, England, Germany, and Israel without obtaining from BXA the validated licenses required by Section 772.1 of the former Regulations, in violation of Section 787.6 of the former Regulations;

Whereas, NF&M has reviewed the proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the proposed Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

Whereas, NF&M neither admits nor denies the allegations contained in the proposed Charging Letter;

Whereas, NF&M wishes to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

Whereas, NF&M agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, NF&M and BXA agree as follows:

1. BXA has jurisdiction over NF&M, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and NF&M agree that the following sanction shall be imposed against NF&M in complete settlement of all alleged violations of the Act and former Regulations arising out of the transactions set forth in the proposed Charging Letter:

- (a) NF&M shall be assessed a civil penalty of \$82,500, \$40,000 of which shall be paid within 30 days of the date of entry of an appropriate Order. Payment of the remaining \$42,500 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, NF&M has committed no violation of the Act, or any regulation, order, or license issued thereunder.
- (b) As authorized by Section 11(d) of the Act, 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 NF&M. Failure to make timely payment of the civil penalty shall result in the denial of all of NF&M's export privileges for a period of one year from

the date of entry of the appropriate Order imposing the civil penalty.

3. NF&M agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of the civil penalty imposed pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against NF&M in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed Charging Letter.

5. NF&M understands that BXA will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and NF&M agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to

Section 766.18(a) of the Regulations, BXA and NF&M agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that neither party shall be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement 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.

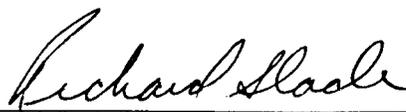
8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have the same force and effect as a decision and Order issued after a full administrative hearing on the record.

BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE



Mark D. Menefee
Acting Director
Office of Export Enforcement

NF&M INTERNATIONAL, INC.



Richard Slade
Executive Vice President

Date: 12/12/97

Date: Dec. 10, 1997

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
NF&M INTERNATIONAL, INC.)
125 Jericho Turnpike)
Jericho, New York 11753)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified NF&M International, Inc. (NF&M) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations),² based on allegations that, on 33 separate occasions between on or

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² The alleged violations occurred in 1991, 1992 and 1993. The Regulations governing the violations at issue are found in the 1991, 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991, 1992 and 1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, currently codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this Order.

about September 29, 1991 and on or about August 11, 1993, NF&M exported titanium alloy products from the United States to Australia, Austria, England, Germany, and Israel without obtaining from BXA the validated licenses required by Section 772.1 of the former Regulations, in violation of Section 787.6 of the former Regulations; and

BXA and NF&M having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they have 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 \$82,500 is assessed against NF&M, \$40,000 of which shall be paid to BXA within 30 days of the date of this Order. Payment of the remaining \$42,500 shall be suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, NF&M has committed no violation of the Act, or any regulation, order, or license issued thereunder. Payment shall be made in the manner specified in the attached instructions. Pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1997)), 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, respondent will be assessed, in addition to interest, a penalty charge and an

administrative charge, as more fully described in the attached Notice.

SECOND, that, as authorized by Section 11(d) of the Act, 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, permission, or privilege granted, or to be granted, to NF&M. Accordingly, if NF&M should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of NF&M's export privileges for a period of one year from the date of this Order.

THIRD, 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.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 9th day of February, 1998.



E567-9

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

NF&M International, Inc.
125 Jericho Turnpike
Jericho, New York 11753

Attention: Mr. Richard Slade
Executive Vice President

Dear Mr. Slade:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, NF&M International, Inc. (NF&M) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act).²

Facts constituting the violations:

CHARGES 1-33

As is described in greater detail in Schedule A, which is attached hereto and incorporated herein by reference, on 33 separate occasions between on or about September 29, 1991 and on or about August 11, 1993, NF&M exported titanium alloy products from the United States to Australia, Austria, England, Germany and Israel without obtaining from BXA the validated export license required by Section 772.1 of the former Regulations. BXA

¹ The alleged violations occurred in 1991, 1992 and 1993. The Regulations governing the violations at issue are found in the 1991, 1992 and 1993 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1991, 1992 and 1993)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, codified at 15 C.F.R. Parts 730-774, establish the procedures that apply to the matters set forth in this charging letter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).



alleges that, by exporting titanium alloy products on 33 separate occasions to any person or destination or for any use in violation of or contrary to the terms of the Act, or any regulation, order, or license issued thereunder, NF&M committed 33 violations of Section 787.6 of the former Regulations.

Accordingly, NF&M 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 of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If NF&M fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7. NF&M is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, NF&M's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of NF&M's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lairold

M. Street, Esq." below the address. Mr. Street may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosures

**SCHEDULE OF VIOLATIONS
NF&M INTERNATIONAL, INC.**

CHARGE NUMBER	DATE	COMMODITY	AIR OR OCEAN WAYBILL NUMBER	DESTINATION
1	09/29/91	Titanium Alloy Products	83166 (OCEAN)	England
2	10/13/91	Titanium Alloy Products	83167 (AIR)	England
3	10/18/91	Titanium Alloy Products	PHLMEL 023/01 (OCEAN)	Australia
4	11/02/91	Titanium Alloy Products	83171 (OCEAN)	Austria
5	11/03/91	Titanium Alloy Products	83170 (OCEAN)	England
6	11/17/91	Titanium Alloy Products	83174 (AIR)	England
7	01/19/92	Titanium Alloy Products	920218 (OCEAN)	England
8	02/08/92	Titanium Alloy Products	83184 (AIR)	Austria
9	02/08/92	Titanium Alloy Products	22542 (OCEAN)	Israel
10	02/09/92	Titanium Alloy Products	920511 (AIR)	England
11	02/28/92	Titanium Alloy Products	5812710607 (AIR)	England
12	03/15/92	Titanium Alloy Products	921066 (AIR)	England
13	04/10/92	Titanium Alloy Products	PHLMEL-163/01 (AIR)	Australia
14	05/03/92	Titanium Alloy Products	921793 (AIR)	England

**SCHEDULE OF VIOLATIONS
NF&M INTERNATIONAL, INC.**

CHARGE NUMBER	DATE	COMMODITY	AIR OR OCEAN WAYBILL NUMBER	DESTINATION
15	05/08/92	Titanium Alloy Products	22613 (AIR)	Israel
16	05/10/92	Titanium Alloy Products	921882 (OCEAN)	England
17	05/24/92	Titanium Alloy Products	922106 (OCEAN)	England
18	06/14/92	Titanium Alloy Products	922441 (OCEAN)	England
19	06/26/92	Titanium Alloy Products	121882 (AIR)	Germany
20	07/26/92	Titanium Alloy Products	923224 (OCEAN)	England
21	08/09/92	Titanium Alloy Products	923478 (OCEAN)	England
22	08/20/92	Titanium Alloy Products	121852 (AIR)	Germany
23	08/23/92	Titanium Alloy Products	923711 (OCEAN)	England
24	09/27/92	Titanium Alloy Products	924320 (OCEAN)	England
25	11/12/92	Titanium Alloy Products	NYCMEL190/08 (OCEAN)	Australia
26	11/24/92	Titanium Alloy Products	CLE413625 (AIR)	Germany
27	01/07/93	Titanium Alloy Products	CLE121715 (AIR)	Germany

SCHEDULE OF VIOLATIONS NF&M INTERNATIONAL, INC.				
CHARGE NUMBER	DATE	COMMODITY	AIR OR OCEAN WAYBILL NUMBER	DESTINATION
28	01/17/93	Titanium Alloy Products	930111 (OCEAN)	England
29	04/18/93	Titanium Alloy Products	83335 (OCEAN)	Austria
30	05/20/93	Titanium Alloy Products	57-320012870 (OCEAN)	Israel
31	07/27/93	Titanium Alloy Products	83384 (OCEAN)	Austria
32	08/05/93	Titanium Alloy Products	57-320019480 (OCEAN)	Israel
33	08/11/93	Titanium Alloy Products	57-320019810 (OCEAN)	Israel