



U.S. Department of Justice

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July 15, 1999

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PRESS RELEASE

**Long Island Company Pleads Guilty
and is Sentenced for Illegal Export of
Surplus Military Items**

ZACHARY W. CARTER, United States Attorney for the Eastern District of New York, **JOHN C. VARRONE**, Special Agent-in-Charge, United States Customs Service and **JOSEPHINE A. FONTANA-MORAN**, Special Agent-in-Charge, United States Department of Commerce, Office of Export Enforcement, announced the sentencing today of the Smithtown Long Island company Morris Rothenberg & Sons, Inc., d/b/a Rothco, on charges of illegally exporting surplus military items. At a proceeding held today at the United States Courthouse in

Uniondale, New York, Rothco entered a plea of guilty before United States District Judge Joanna Seybert to a two-count information charging the company with illegally shipping handcuffs to the Republic of Croatia and gas masks to Japan. The items in question are regulated by the United States Departments of State and Commerce, respectively, and may only be exported upon the issuance of a validated license by the appropriate agency. In connection with its plea today, Rothco agreed to pay a fine of \$500,000, and paid prosecution costs in the amount of \$200,000.

In a related civil proceeding brought by the Department of Commerce, Rothco agreed to pay a \$200,000 civil penalty to settle allegations that between the years 1994 and 1996 it illegally exported police and military equipment, such as stun guns, night vision equipment, gas masks and handcuffs to various countries without the required licenses. In addition to the \$200,000 civil penalty, the Department of Commerce also denied the export privileges of Rothco for a period of one year. The denial period was suspended and will be waived after one year if the company does not violate U.S. export control laws during that time. Rothco, a wholesale supplier of surplus military items, police equipment, and hunting and camping supplies, does business in the United States and abroad.

The investigation was conducted by the U.S. Customs Service and the U.S. Department of Commerce, Office of Export Enforcement. The prosecution of this case is being handled by Assistant U.S. Attorney Edgardo Ramos.

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

 In the Matter of:)
)
 MORRIS ROTHENBERG & SON, INC.,)
)
 doing business as)
)
 ROTHCO)
)
 25 Ranick Road)
 Smithtown, New York 11787,)
)
 _____ Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce ("BXA"), having notified Morris Rothenberg & Son, Inc., doing business as Rothco (hereinafter referred to as "Rothco"), 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. 1998)) (the "Act"),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the "Regulations"),² based on

¹ 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)), August 13, 1997 (3 C.F.R., 1997 Comp. 305 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

² The alleged violations occurred during 1994, 1995, and 1996. The Regulations governing the violations at issue are found in the 1994, 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 and 1995) and 15

allegations that, on 19 separate occasions between on or about July 21, 1994 and on or about May 15, 1996, Rothco exported from the United States to various foreign destinations U.S.-origin handcuffs, defender SAP gloves, stun guns and pistol laser sights without the validated export licenses required by Section 772.1(b) (redesignated as Section 772A.1(b) on March 25, 1996) of the former Regulations, in violation of Section 787.6 or Section 787A.6 of the former Regulations and, on one occasion on or about July 27, 1995, attempted to export handcuffs to El Salvador without the validated export license required by Section 772.1(b) of the former Regulations, in violation of Section 787.3 of the former Regulations;

BXA and Rothco having entered into a Settlement Agreement pursuant to Section 766.18(a) 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;

C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter "the former Regulations"). The March 25, 1996 Federal Register publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the violations that BXA alleges occurred. The reorganized and restructured Regulations establish the procedures that apply to this matter.

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$200,000 is assessed against Rothco, which shall be paid to the United States Department of Commerce within 30 days from the date 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.A. §§ 3701-3720E (1983 and Supp. 1998)), 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.

THIRD, that, for a period of one year from the date of this Order, Morris Rothenberg & Son, Inc., doing business as Rothco, 25 Ranick Road, Smithtown, New York 11787, and all of its successors or assigns, officers, representatives, agents, and employees, 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 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 Section 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, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for one year from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Rothco has committed no violation of the Act, or any regulation, order, or license issued thereunder.

EIGHTH, 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 15th day of July, 1999.

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

 In the Matter of:)
)
 MORRIS ROTHENBERG & SON, INC.,)
)
 doing business as)
)
 ROTHCO)
)
 25 Ranick Road)
)
 Smithtown, New York 11787,)
)
 Respondent)

SETTLEMENT AGREEMENT

This Agreement is made by and between Morris Rothenberg & Son, Inc., doing business as Rothco (hereinafter referred to as "Rothco"), 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 (1998)) (the "Regulations"),¹ issued pursuant

¹ The alleged violations occurred during 1994, 1995, and 1996. The Regulations governing the violations at issue are found in the 1994, 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 and 1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter "the former Regulations"). The March 25, 1996 Federal Register publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the violations that BXA alleges occurred. The reorganized and restructured Regulations establish the procedures that apply to this matter.

to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the "Act").²

Whereas, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce ("BXA"), has notified Rothco of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on 19 separate occasions between on or about July 21, 1994 and on or about May 15, 1996, Rothco exported from the United States to various foreign destinations U.S.-origin handcuffs, defender SAP gloves, stun guns and pistol laser sights without the validated export licenses required by Section 772.1(b) (redesignated as Section 772A.1(b) on March 25, 1996) of the former Regulations, in violation of Section 787.6 or Section 787A.6 of the former Regulations and, on one occasion on or about July 27, 1995, Rothco attempted to export handcuffs to El Salvador without the validated export license required by Section 772.1(b) of the former Regulations, in violation of Section 787.3 of the former Regulations;

Whereas, Rothco has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the

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)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

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

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

Now Therefore, Rothco and BXA agree as follows:

1. BXA has jurisdiction over Rothco, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.
2. BXA and Rothco agree that the following sanctions shall be imposed against Rothco in complete settlement of the violations of the Act and the former Regulations set forth in the proposed Charging Letter:
 - a. Rothco shall be assessed a civil penalty of \$200,000, which shall be paid to the Department of Commerce within 30 days from the date of entry of an appropriate Order.

- b. Rothco and all its successors or assigns, officers, representatives, agents, and employees, may not, for a period of one year from the date of entry of an appropriate Order, 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:
- i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. 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
 - iii. 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.

- c. As authorized by Section 766.18(c) of the Regulations, this denial of export privileges shall be suspended for a period of one year from the date of entry of an appropriate Order, and shall thereafter be waived, provided that, during the period of suspension, Rothco has committed no violation of the Act, or any regulation, order, or license issued thereunder.

3. Rothco 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 Rothco in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed

Charging Letter or any other transaction occurring between April 1, 1994 and May 31, 1996.

5. Rothco 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 Rothco 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 Rothco 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

MORRIS ROTHENBERG & SON, INC.,
doing business as
ROTHCO



Mark D. Menefee
Director
Office of Export Enforcement



Howard Sonberg
VICE PRESIDENT

Date: 6/10/99

Date: 6/14/99



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Morris Rothenberg & Son, Inc.,
doing business as
Rothco
25 Ranick Road
Smithtown, New York 11787

Attention: Howard Somberg
President

Dear Mr. Somberg:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), hereby charges that Morris Rothenberg & Son, Inc., doing business as Rothco (hereinafter referred to as "Rothco"), has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (hereinafter the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act"), as set forth below.²

¹ The alleged violations occurred during 1994, 1995, and 1996. The Regulations governing the violations at issue are found in the 1994, 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 and 1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter "the former Regulations"). The March 25, 1996 Federal Register publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the violations that BXA alleges occurred. The reorganized and restructured Regulations establish the procedures that apply to this matter.

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)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



Facts constituting violations:

Charges 1-19

On 19 separate occasions between on or about July 21, 1994 and on or about May 15, 1996, as is described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, Rothco exported from the United States to various foreign destinations U.S.-origin handcuffs, defender SAP gloves, stun guns and pistol laser sights without the validated export licenses required by Section 772.1(b) (redesignated as Section 772A.1(b) on March 25, 1996) of the former Regulations. BXA alleges that, by exporting U.S.-origin commodities to any person or to any destination in violation of or contrary to the provisions of the Act, or any regulation, order, or license issued thereunder, Rothco violated Section 787.6 or Section 787A.6 of the former Regulations in connection with each shipment. Specifically, BXA alleges that Rothco committed 17 violations of Section 787.6 and two violations of Section 787A.6 of the former Regulations, for a total of 19 violations of the former Regulations.

Charge 20

On or about July 27, 1995, Rothco attempted to export from the United States to El Salvador U.S.-origin handcuffs without the validated export license required by Section 772.1(b) of the former Regulations. BXA alleges that, by attempting to export U.S.-origin commodities to any person or to any destination in violation of or contrary to the provisions of the Act, or any regulation, order, or license issued thereunder, Rothco committed one violation of Section 787.3 of the former Regulations.

Accordingly, Rothco 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:

- a. The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1));
- b. Denial of export privileges (see Section 764.3(a)(2)); and/or
- c. Exclusion from practice (see Section 764.3(a)(3)).

Copies of relevant Parts of the Regulations are enclosed.

If Rothco 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.

Rothco is further notified that it is entitled to an agency hearing on the record as provided by 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 charging letter. Accordingly, Rothco'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 of the Regulations. In addition, a copy of Rothco's answer should be served on BXA at the address set forth in Section 766.5, adding "ATTENTION: Thomas C. Barbour, Esq." below the address. Mr. Barbour may be contacted by telephone at (202) 482-5311.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

SCHEDULE A

Morris Rothenberg & Son, Inc.,
doing business as Rothco

Charge No.	Exported on or about	Commodity	Invoice No.	Bill of lading or Airbill No.	Destination
1	7/21/94	handcuffs	K026058	6051349592	Czech Republic
2	8/27/94	handcuffs	K030511	6051349894	Czech Republic
3	9/13/94	handcuffs; stun guns	K034127	5815968741	Paraguay
4	10/7/94	stun guns; defender SAP gloves	K038973	720535	Switzerland
5	11/23/94	handcuffs	K042623	ELMU04019 043A003	Argentina
6	11/23/94	handcuffs; stun guns	K046965	5815969038	Bolivia
7	12/17/94	handcuffs	K052829	JFK 00737571	Finland
8	6/16/95	handcuffs	L023351	06583630584	Saudi Arabia
9	6/23/95	handcuffs	L024512	92150004	Bahamas
10	8/16/95	handcuffs; stun guns	L032307	5827485686	Bolivia
11	11/10/95	handcuffs	L047062	08003295994	Ukraine
12	11/15/95	handcuffs	L047057	01120	Paraguay
13	12/1/95	handcuffs	L052837	5827505343	Finland
14	1/11/96	handcuffs	M001213	5827505497	Malaysia
15	1/22/96	handcuffs	M002644	5827505662	Slovenia
16	1/30/96	pistol laser sights	M002664	92998423	Argentina
17	3/20/96	defender SAP gloves	M012288	JFK 307832	Singapore
18	4/29/96	handcuffs	M018511	5827486368	Finland
19	5/15/96	pistol laser sights	M020933	5827486280	Hong Kong