

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Elite International Transportation, Inc. )  
15333 JFK Blvd., Suite 600 )  
Houston, TX 77032 )  
 )  
Respondent )  
\_\_\_\_\_ )

ORDER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Elite International Transportation, Inc. (“Elite”), of Houston, TX, of its intention to initiate an administrative proceeding against Elite pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “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)) (the “Act”),<sup>2</sup> through the issuance of a proposed charging letter to Elite that alleged that Elite committed 55 violations of the Regulations, specifically:

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<sup>1</sup> The charged violations occurred from 2000 through 2004. The Regulations governing the violations at issue are found in the 2000 - 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2004)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-13 (15 C.F.R. §764.2(g) - Misrepresentation of Authorization on Export Control Document)**

On 13 occasions between on or about February 22, 2000 through on or about June 17, 2002, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350, requires a license under Section 742.2 of the Regulations. In making false statements to the U.S. Government, Elite committed 13 violations of Section 764.2(g) of the Regulations.

**Charges 14-55 (15 C.F.R. §764.2(g) - Misrepresentation on Export Control Document)**

On 42 occasions from on or about March 12, 2003 through on or about June 2, 2004, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations (SEDs) that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350, requires a license under Section 742.2 of the Regulations. Licenses from the Department of Commerce had been obtained for the shipments by Equistar, but Elite incorrectly identified the authorization for these shipments on the relevant export control documents submitted to the U.S. Government. In so doing, Elite committed 42 violations of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Elite have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

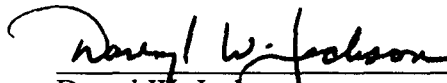
FIRST, that a civil penalty of \$156,000 is assessed against Elite, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Elite 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 Elite. Accordingly, if Elite should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Elite's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, 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.

  
\_\_\_\_\_  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 23<sup>rd</sup> day of January, 2008.

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

In the Matter of: )  
 )  
Elite International Transportation, Inc. )  
15333 JFK Blvd., Suite 600 )  
Houston, TX 77032 )  
 )  
Respondent )  
 )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Elite International Transportation, Inc. (“Elite”), of Houston, TX, and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (“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>

WHEREAS, BIS has notified Elite of its intention to initiate an administrative Proceeding against Elite, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Elite that alleged that Elite committed 55 violations of the Regulations, specifically:

<sup>1</sup> The charged violations occurred from 2000 through 2004. The Regulations governing the violations at issue are found in the 2000 - 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2004)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137, Aug. 16, 2007), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-13 (15 C.F.R. §764.2(g) - Misrepresentation of Authorization on Export Control Document)**

On 13 occasions between on or about February 22, 2000 through on or about June 17, 2002, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350, requires a license under Section 742.2 of the Regulations. In making false statements to the U.S. Government, Elite committed 13 violations of Section 764.2(g) of the Regulations.

**Charges 14-55 (15 C.F.R. §764.2(g) - Misrepresentation on Export Control Document)**

On 42 occasions from on or about March 12, 2003 through on or about June 2, 2004, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations (SEDs) that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350, requires a license under Section 742.2 of the Regulations. Licenses from the Department of Commerce had been obtained for the shipments by Equistar, but Elite incorrectly identified the authorization for these shipments on the relevant export control documents submitted to the U.S. Government. In so doing, Elite committed 42 violations of Section 764.2(g) of the Regulations.

WHEREAS, Elite 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 allegations are found to be true;

WHEREAS, Elite fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Elite enters into this Agreement voluntarily and with full knowledge

of its rights;

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

WHEREAS, Elite neither admits nor denies the allegations contained in the proposed charging letter;

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Elite, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Elite in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
  - a. Elite shall be assessed a civil penalty in the amount of \$156,000, all of 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, permission, or privilege granted, or to be granted, to Elite. Failure to make timely payment of the civil penalty set forth above

may result in the denial of all of Elite'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, Elite 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Elite in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

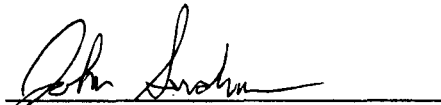
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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 the Parties 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.

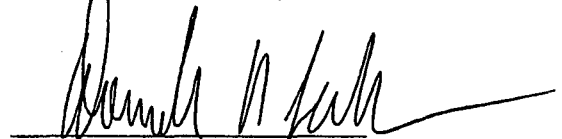
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY,  
U.S. DEPARTMENT OF COMMERCE



John Sonderman  
Acting Director  
Office of Export Enforcement

ELITE INTERNATIONAL  
TRANSPORTATION, INC.



Douglas N. Jacobson, Esq.  
Strasburger & Price, LLP  
Attorney for Elite International  
Transportation, Inc.

Date: 12/21/2007

Date: December 21, 2007



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Elite International Transportation, Inc.  
15333 JFK Blvd., Suite 600  
Houston, TX 77032

*Attn: Mr. Mark Kaifesh, President*

Dear Mr. Kaifesh:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Elite International Transportation, Inc. ("Elite"), of Houston, TX, has committed 55 violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that Elite committed the following violations:

**Charges 1-13 (15 C.F.R. §764.2(g) - Misrepresentation of Authorization on Export Control Document)**

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on 13 occasions between on or about February 22, 2000 through on or about June 17, 2002, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350,

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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 (2007). The charged violations occurred from 2000 through 2004. The Regulations governing the violations at issue are found in the 2000 - 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2004)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). 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., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137, Aug. 16, 2007), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

requires a license under Section 742.2 of the Regulations. In making false statements to the U.S. Government, Elite committed 13 violations of Section 764.2(g) of the Regulations.

**Charges 14-55 (15 C.F.R. §764.2(g) - Misrepresentation on Export Control Document)**

As described in greater detail in the attached Schedule of Violations, on 45 occasions from on or about March 12, 2003 through on or about June 2, 2004, Elite made false or misleading representations, statements, or certifications, to the U.S. Government in connection with the preparation, submission, issuance, use or maintenance of export control documents. Specifically, on Shipper's Export Declarations (SEDs) that it filed with the U.S. Government on behalf of Equistar Chemicals LP ("Equistar"), of Houston, TX, Elite asserted that exports of Triethanolamine to Mexico were authorized pursuant to "NLR" (no license required), when in fact licenses were required from the Department of Commerce for such transactions. The export to Mexico of Triethanolamine, an item subject to the Regulations and classified under Export Control Classification Number (ECCN) 1C350, requires a license under Section 742.2 of the Regulations. Licenses from the Department of Commerce had been obtained for the shipments by Equistar, but Elite incorrectly identified the authorization for these shipments on the relevant export control documents submitted to the U.S. Government. In so doing, Elite committed 42 violations of Section 764.2(g) of the Regulations.

\* \* \* \*

Accordingly, Elite 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 allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Elite fails to answer the charges 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. (Regulations, Sections

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<sup>3</sup> See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Elite International Transportation, Inc.  
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766.6 and 766.7). If Elite defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Elite. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Elite is further notified that it is entitled to an agency hearing on the record if Elite files a written demand for one with its answer. (Regulations, Section 766.6). Elite is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

Elite is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Elite have a proposal to settle this case, Elite or its representative should transmit it through the attorney representing BIS named below.

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

Chief Counsel for Industry and Security  
Attention: Glenn H. Kaminsky  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

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Glenn H. Kaminsky is the attorney representing BIS in this case; any communications that Elite may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

John Sonderman  
Acting Director  
Office of Export Enforcement

Enclosure

## Elite International Transportation, Inc.- Schedule of Violations

Charges	Date	Commodity	Amount	ECCN	Destination
1	22-Feb-00	TEA	44,140 lbs.	1C350	Mexico
2	30-Mar-00	TEA	44,320 lbs.	1C350	Mexico
3	03-Apr-00	TEA	44,120 lbs.	1C350	Mexico
4	01-May-00	TEA	43,660 lbs.	1C350	Mexico
5	02-Aug-00	TEA	44,500 lbs.	1C350	Mexico
6	14-Aug-00	TEA	43,360 lbs.	1C350	Mexico
7	12-Sep-00	TEA	44,140 lbs.	1C350	Mexico
8	26-Sep-00	TEA	45,120 lbs.	1C350	Mexico
9	16-Mar-01	TEA	44,380 lbs.	1C350	Mexico
10	26-Mar-01	TEA	44,200 lbs.	1C350	Mexico
11	19-Nov-01	TEA	43,140 lbs.	1C350	Mexico
12	05-Mar-02	TEA	44,060 lbs.	1C350	Mexico
13	17-Jun-02	TEA	44,580 lbs.	1C350	Mexico
14	12-Mar-03	TEA	20,230 kg.	1C350	Mexico
15	16-Mar-03	TEA	19,377 kg.	1C350	Mexico
16	07-Apr-03	TEA	35,172 kg.	1C350	Mexico
17	13-Apr-03	TEA	20,094 kg.	1C350	Mexico
18	20-Apr-03	TEA	19,895 kg.	1C350	Mexico
19	27-Apr-03	TEA	20,384 kg.	1C350	Mexico
20	07-May-03	TEA	19,786 kg.	1C350	Mexico
21	12-May-03	TEA	19,704 kg.	1C350	Mexico
22	19-May-03	TEA	19,713 kg.	1C350	Mexico
23	15-Jun-03	TEA	19,858 kg.	1C350	Mexico
24	22-Jun-03	TEA	20,175 kg.	1C350	Mexico
25	07-Jul-03	TEA	20,003 kg.	1C350	Mexico
26	08-Jul-03	TEA	19,967 kg.	1C350	Mexico
27	09-Jul-03	TEA	18,987 kg.	1C350	Mexico
28	10-Jul-03	TEA	20,221 kg.	1C350	Mexico
29	21-Jul-03	TEA	19,958 kg.	1C350	Mexico
30	05-Aug-03	TEA	19,650 kg.	1C350	Mexico
31	10-Aug-03	TEA	19,586 kg.	1C350	Mexico
32	13-Aug-03	TEA	19,622 kg.	1C350	Mexico
33	17-Aug-03	TEA	19,668 kg.	1C350	Mexico
34	20-Aug-03	TEA	19,641 kg.	1C350	Mexico
35	25-Aug-03	TEA	19,550 kg.	1C350	Mexico
36	02-Sep-03	TEA	19,822 kg.	1C350	Mexico
37	17-Sep-03	TEA	20,003 kg.	1C350	Mexico
38	03-Dec-03	TEA	20,394 kg.	1C350	Mexico
39	08-Dec-03	TEA	20,094 kg.	1C350	Mexico
40	30-Dec-03	TEA	19,813 kg.	1C350	Mexico
41	06-Jan-04	TEA	20,412 kg.	1C350	Mexico
42	16-Feb-04	TEA	20,321 kg.	1C350	Mexico
43	17-Feb-04	TEA	19,876 kg.	1C350	Mexico
44	01-Mar-04	TEA	20,457 kg.	1C350	Mexico
45	08-Mar-04	TEA	20,412 kg.	1C350	Mexico
46	16-Mar-04	TEA	20,657 kg.	1C350	Mexico
47	12-Apr-04	TEA	20,230 kg.	1C350	Mexico
48	15-Apr-04	TEA	19,623 kg.	1C350	Mexico
49	21-Apr-04	TEA	20,040 kg.	1C350	Mexico
50	22-Apr-04	TEA	20,357 kg.	1C350	Mexico
51	22-Apr-04	TEA	19,731 kg.	1C350	Mexico
52	06-May-04	TEA	21,038 kg.	1C350	Mexico
53	10-May-04	TEA	20,448 kg.	1C350	Mexico
54	12-May-04	TEA	20,176 kg.	1C350	Mexico
55	13-May-04	TEA	20,430 kg.	1C350	Mexico