

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICEI INTERNATIONAL,)
)
 Plaintiff (Petitioner),)
)
 v.)
)
 U. S. DEPARTMENT OF COMMERCE,)
)
 Defendant (Respondent))

Civil Action No. 1:10-cv-01237-JDB

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and a settlement agreement between the parties, plaintiff Micei International and defendant U.S. Department of Commerce, by and through their respective attorneys, hereby stipulate to the dismissal of this action with prejudice, each party to bear its own fees and costs.

Dated: October 15, 2012

Respectfully submitted,

/s/ Eugene D. Gulland
EUGENE D. GULLAND
D.C. Bar No. 175422
KIMBERLY A. STROSNIDER
D.C. Bar No. 478744
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: (202) 662-6000
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Attorneys for Plaintiff

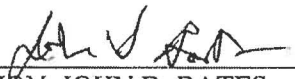
STUART F. DELERY
Acting Assistant Attorney General

SANDRA SCHRAIBMAN
D.C. Bar No. 188599
Assistant Branch Director

/s/Marcia K. Sowles
MARCIA K. SOWLES
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E-mail: marcia.sowles@usdoj.gov

Attorneys for Defendant

SO ORDERED.



HON. JOHN D. BATES
United States District Judge

Dated: October 16, 2012

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

In the Matter of:

Micei International

Respondent

08-BIS-0005

ORDER RELATING TO
MICEI INTERNATIONAL

WHEREAS, the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), notified Micei International, of Skopje, Macedonia (“Micei”) in 2008 that it initiated an administrative proceeding against Micei pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Charging Letter to Micei in 2008 that alleges that Micei committed fourteen violations of the Regulations in 2003;³

WHEREAS, an Administrative Law Judge (“ALJ”) previously issued a Recommended Decision and Order in this proceeding containing findings of fact and

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The alleged violations occurred in 2003. The governing provisions of the EAR are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 Regulations set forth the procedures that apply to this matter.

² 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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

³ See 74 Fed. Reg. 24,788 (May 26, 2009).

conclusions of law, including, inter alia, that Micei was in default under Section 766.7 of the Regulations, and the then-Acting Under Secretary of Commerce for Industry and Security affirmed the ALJ's recommended default order through a Final Decision and Order dated May 14, 2009 (the "May 14, 2009 Order");

WHEREAS, Micei subsequently filed petitions for review of the May 14, 2009 Order, with the U.S. Court of Appeals for the District of Columbia Circuit and submitted briefs raising various challenges to the order (Appellant/Petitioner Brief filed Nov. 16, 2009, and Reply Brief filed Dec. 30, 2009).⁴

WHEREAS, the May 14, 2009 Order became effective on May 26, 2009, but subsequently, on July 24, 2009, BIS issued an Order Staying Enforcement of Final Decision and Order Pending Appeal with regard to the May 14, 2009 Order;⁵

WHEREAS, on July 16, 2010, the U.S. Court of Appeals for the District of Columbia Circuit issued its Decision and Order transferring Micei's petition for review to the U.S. District Court for the District of Columbia.⁶ Accordingly, Micei's petition is currently pending as Civil Action Number 1:10-cv-01237 (JDB) (the "petition for review");

WHEREAS, BIS and Micei have 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;

⁴ See *Micei International v. Department of Commerce*, Nos. 09-1155 and 09-1186 (D.C. Cir.).

⁵ See 74 Fed. Reg. 38,394 (August 3, 2009).

⁶ See *Micei International v. Department of Commerce*, 613 F.3d 1147 (D.C. Cir. 2010).

WHEREAS, the Settlement Agreement contains a provision that, if I approve the terms of the Settlement Agreement and issue this Order, the parties are required to jointly submit to the District Court within five days of my issuance of this Order a stipulation of dismissal with prejudice with regard to Micei's petition for review; and

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

IT IS THEREFORE ORDERED:

FIRST, as set forth in the Settlement Agreement, Micei shall implement an Export Management and Compliance Program no later than six months from the effective date of this Order. Said Export Management and Compliance Program shall be in substantial compliance with the BIS compliance guidelines, which are available from the BIS web site at http://www.bis.doc.gov/complianceand enforcement/emcp_guidelines.pdf, and which are incorporated herein by reference. A copy of Micei's Export Management and Compliance Program shall be submitted in English to the Department of Commerce, Bureau of Industry and Security, Office of Exporter Services, Export Management and Compliance Division, Attn: Tom Andrukonis, 14th St. & Pennsylvania Ave., NW, Washington, D.C. 20230 ("BIS Export Management and Compliance Division") no later than six months from the effective date of this Order.

SECOND, as set forth in the Settlement Agreement, Micei shall complete two audits of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted in English to the BIS Export Management and Compliance Division at the address listed in the paragraph above. The first audit shall cover the period from January 1, 2012,

through December 31, 2012, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2013. The second audit shall cover the period from January 1, 2013, through December 31, 2013, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2014. Said audits shall be in substantial compliance with the EMS sample audit module, which is available on the BIS web site at http://www.bis.doc.gov/complianceand enforcement/ revised_emcp_audit.pdf, and shall include an assessment of Micei's compliance with the Regulations. In addition, where said audits identify actual or potential violations of the Regulations, Micei shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Export Management and Compliance Division.

THIRD, as set forth in the Settlement Agreement, the full and timely implementation of the Export Management and Compliance Program, as set forth above, and the timely completion and submission of the audits, as set forth above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Micei. Accordingly, if Micei should fail to fully or timely implement the Export Management and Compliance Program, or to timely complete and submit either of the audits as agreed to by the Parties and as set forth above, the undersigned may issue an Order denying all of Micei's export privileges under the Regulations for a period of one year from, respectively, the date by which the Export Management and Compliance Program is to be implemented or the date by which the results of the completed audits are to be submitted.

FOURTH, that the Charging Letter, Settlement Agreement and this Order shall be made available to the public following the dismissal with prejudice of Micei's petition for review, along with the order of dismissal with prejudice by the District Court of Micei's petition for review.

FIFTH, this Order shall become effective, upon entry of an order of dismissal with prejudice by the District Court of Micei's petition for review, shall constitute final agency action in this matter, and shall supersede and void the May 14, 2009 Order.



Eric L. Hirschhorn
Under Secretary of Commerce
for Industry and Security

Issued this 11th day of October, 2012.

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

In the Matter of:

Micei International

Respondent

08-BIS-0005

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Micei International, of Skopje, Macedonia (“Micei”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS initiated this administrative proceeding in 2008 against Micei, pursuant to the Act and the Regulations;

WHEREAS, BIS issued a Charging Letter to Micei that alleges that Micei committed fourteen violations of the Regulations in 2003;³

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The alleged violations occurred in 2003. The governing provisions of the EAR are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 Regulations set forth the procedures that apply to this matter.

² 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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

³ See 74 Fed. Reg. 24,788 (May 26, 2009).

WHEREAS, Micei has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Micei does not admit the allegations contained in the Charging Letter;

WHEREAS, an Administrative Law Judge (“ALJ”) previously issued a Recommended Decision and Order in this proceeding containing findings of fact and conclusions of law, including, inter alia, that Micei was in default under Section 766.7 of the Regulations, and the then-Acting Under Secretary of Commerce for Industry and Security affirmed the ALJ’s recommended default order through a Final Decision and Order dated May 14, 2009 (the “May 14, 2009 Order”);

WHEREAS, Micei subsequently filed petitions for review of the May 14, 2009 Order with the U.S. Court of Appeals for the District of Columbia Circuit and submitted briefs raising various challenges to the order (Appellant/Petitioner Brief filed Nov. 16, 2009, and Reply Brief filed Dec. 30, 2009).⁴

WHEREAS, the May 14, 2009 Order became effective on May 26, 2009, but subsequently, on July 24, 2009, BIS issued an Order Staying Enforcement of Final Decision and Order Pending Appeal with regard to the May 14, 2009 Order;⁵

WHEREAS, on July 16, 2010, the U.S. Court of Appeals for the District of Columbia Circuit issued its Decision and Order transferring Micei’s petition for review to the U.S. District

⁴ See *Micei International v. Department of Commerce*, Nos. 09-1155 and 09-1186 (D.C. Cir.).

⁵ See 74 Fed. Reg. 38,394 (Aug. 3, 2009).

Court for the District of Columbia.⁶ Accordingly, Micei's petition is currently pending as Civil Action Number 1:10-cv-01237 (JDB) (the "petition for review");

WHEREAS, both Parties desire to avoid the cost of further litigation relating to the charges in the Charging Letter, including litigation over the petition for review;

WHEREAS, both Parties fully understand the terms of this Agreement and the Order ("Order") that the Under Secretary of Commerce for Industry and Security will issue if he approves this Agreement;

WHEREAS, both Parties enter into this Agreement voluntarily and with full knowledge of their rights, after having consulted with counsel;

WHEREAS, both Parties state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, both Parties wish to settle and dispose of all matters alleged in, and specifically relating to, the Charging Letter, including the petition for review, by entering into this Agreement; and

WHEREAS, both Parties agree to be bound by the Order if it is issued by the Under Secretary of Commerce for Industry and Security and then becomes effective in accordance with the terms of this Agreement.

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Micei, under the Regulations, in connection with the matters alleged in the Charging Letter.

⁶ See *Micei International v. Department of Commerce*, 613 F.3d 1147 (D.C. Cir. 2010).

2. In complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Charging Letter, the Parties agree on the following actions:

a. Micei shall implement an Export Management and Compliance Program not later than six months from the effective date of the Order. Said Export Management and Compliance Program shall be in substantial compliance with the BIS compliance guidelines, which are available from the BIS web site at http://www.bis.doc.gov/complianceand enforcement/emcp_guidelines.pdf, and which are incorporated herein by reference. A copy of Micei's Export Management and Compliance Program shall be submitted in English to the Department of Commerce, Bureau of Industry and Security, Office of Exporter Services, Export Management and Compliance Division, Attn: Tom Andrukonis, 14th St. & Pennsylvania Ave., NW, Washington, D.C. 20230 ("BIS Export Management and Compliance Division"), not later than six months from the effective date of the Order.

b. Micei shall complete two audits of its compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports or reexports that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted in English to the BIS Export Management and Compliance Division at the address listed in Paragraph 2.a above. The first audit shall cover the period from January 1, 2012, through December 31, 2012, and the related report shall be due to the BIS Export Management and Compliance Division no later than January 31, 2013. The second audit shall cover the period from January 1, 2013 through December 31, 2013, and the related report shall be due to the BIS Export Management

and Compliance Division no later than January 31, 2014. Said audits shall be in substantial compliance with the EMS sample audit module, which is available on the BIS web site at http://www.bis.doc.gov/complianceandenforcement/revised_emcp_audit.pdf, and shall include an assessment of Micei's compliance with the Regulations. In addition, where said audits identify actual or potential violations of the Regulations, Micei shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Export Management and Compliance Division.

c. The full and timely implementation of the Export Management and Compliance Program agreed to in Paragraph 2.a, and the timely completion and submission of the audits agreed to in Paragraph 2.b are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Micei. Failure to fully or timely implement the Export Management and Compliance Program, or to timely complete and submit either of the audits, may result in the denial of all of Micei's export privileges under the Regulations for one year from, respectively, the date by which the Export Management and Compliance Program is to be implemented or the date by which the results of the completed audits are to be submitted.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Micei hereby releases, waives, and discharges any claims of any sort by or on its behalf, whether asserted or unasserted, against the U.S. Department of Justice, the U.S. Department of Commerce, and the U.S. Coast Guard, as well as all current and former officials, employees and agents of the U.S. Department of Justice, the U.S. Department of Commerce, and the U.S. Coast Guard, arising out of the facts and circumstances giving rise to the matters that resulted in this

Agreement, including, but not limited to, the investigation of the facts and circumstances giving rise to BIS's issuance of the Charging Letter, the issuance of the Charging Letter, and any litigation relating to the Charging Letter, including the petition for review.

Micei also hereby waives any possible legal objections to this Agreement at any future date and all rights to further procedural steps in this proceeding (except with respect to any alleged violations of this Agreement or of the Order if it issues and then becomes effective in accordance with Paragraph 7 of this Agreement), including, without limitation, any right to: (a) seek an administrative hearing regarding the allegations in the Charging Letter; and (b) seek judicial review or otherwise contest the validity of this Agreement or the Order.

4. BIS agrees that upon submission of a stipulation of dismissal with prejudice with regard to Micei's petition for review as set forth in Paragraph 9 of this Agreement and entry of an order of dismissal with prejudice by the District Court of Micei's petition for review of the May 14, 2009 Order, BIS will not initiate any further administrative proceeding against Micei in connection with any alleged violation of the Act or the Regulations arising out of the transactions specifically detailed in the Charging Letter and agrees to release, waive and discharge any and all claims that BIS and, when acting on its behalf, any successors, assigns, agents, or employees, may have in connection with all matters alleged in, and specifically relating to, the Charging Letter and the transactions described therein, including the petition for review.

5. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Under Secretary of Commerce for Industry and Security pursuant to Section 766.18(b) of the Regulations or does not become effective as set forth in Paragraph 7 of this Agreement, 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.

6. 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. This agreement cannot be altered except by signed written agreement by the Parties and written approval by the Under Secretary of Commerce for Industry and Security or his delegate.

7. This Agreement shall become binding on the Parties only if the Under Secretary of Commerce for Industry and Security approves the Agreement and issues the Order, the Parties then jointly submit to the U.S. District Court for the District of Columbia (the "District Court") within five days of the issuance of the Order a stipulation of dismissal with prejudice (in the form attached as Appendix A hereto) with regard to Micei's petition for review of the May 14, 2009 Order, and Micei's petition for review is dismissed with prejudice by the District Court. The Order will become effective only upon entry of the order of dismissal with prejudice by the District Court and once effective will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

8. The Order, if it issues and becomes effective as described in Paragraph 7, will supersede and void the May 14, 2009 Order.

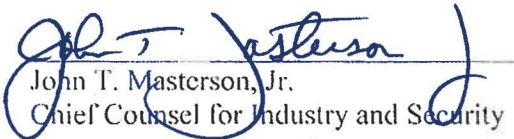
9. The Parties agree to jointly submit to the District Court within five days of the issuance of the Order a stipulation of dismissal with prejudice with regard to Micei's petition for review. If the Under Secretary of Commerce for Industry and Security issues the Order, and if the Parties fail to submit the stipulation of dismissal with prejudice to the District Court within five days thereof, either Party may apply to the Under Secretary of Commerce for Industry and Security requesting that he vacate the Order.

10. BIS will make the Charging Letter, this Agreement, and the Order available to the public following the dismissal with prejudice of Micei's petition for review as set forth in Paragraph 7 above, along with the order of dismissal with prejudice of Micei's petition for review.

11. Each Party will bear its own attorney's fees and costs.

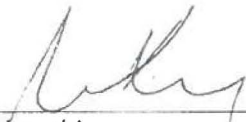
12. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective Party to the terms and conditions set forth herein.

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


John T. Masterson, Jr.
Chief Counsel for Industry and Security


Date: October 10, 2012

MICEI INTERNATIONAL


Iki Malinkovski
President

Date: 08 Oct. 2012

Reviewed and approved by:


Peter Lichtenbaum, Esq.
Covington & Burling LLP
Counsel for Micei International

Date: October 9, 2012

Appendix A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICEI INTERNATIONAL,)
)
 Plaintiff (Petitioner),)
)
 v.) Civil Action No. 1:10-cv-01237-JDB
)
 U. S. DEPARTMENT OF COMMERCE,)
)
 Defendant (Respondent))

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and a settlement agreement between the parties, plaintiff Micei International and defendant U.S. Department of Commerce, by and through their respective attorneys, hereby stipulate to the dismissal of this action with prejudice, each party to bear its own fees and costs.

Dated: _____

Respectfully submitted,

/s/ Eugene D. Gulland
EUGENE D. GULLAND
D.C. Bar No. 175422
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Assistant Branch Director

s/Marcia K. Sowles
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Fax: (202) 616- 8470
E-mail: marcia.sowles@usdoj.gov

Attorneys for Defendant

SO ORDERED.

HON. JOHN D. BATES
United States District Judge

Dated: _____, 2012



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED, FEDERAL EXPRESS,
FACSIMILE, AND ELECTRONIC MAIL

Micei International
Kamnik bb
1000 Skopje
Republic of Macedonia

Attention: Iki Malinkovski, CEO

Dear Mr. Malinkovski:

The Bureau of Industry and Security, U. S. Department of Commerce ("BIS"), has reason to believe that Micei International, of Skopje, Macedonia ("Micei"), has committed fourteen (14) violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that Micei committed the following violations:

Charges 1-7 15 C.F.R. § 764.2(b): Causing, Aiding, Abetting, Inducing and/or Permitting a Violation of a Denial Order

As described in further detail in the attached schedule of violations, which is incorporated herein by reference, on seven occasions between on or about July 2, 2003, and on or about October 8, 2003, Micei caused, aided, abetted, induced and/or permitted acts prohibited by the Regulations, namely, the violations by Yuri Montgomery ("Montgomery") of a BIS order denying Montgomery's export privileges under Section 766.25 of the Regulations (the "Denial Order"). Specifically, Micei authorized, requested, and/or arranged for Montgomery to negotiate for and/or make certain purchases for or on behalf of Micei of items subject to the Regulations for

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2008 Regulations govern the procedural aspects of this case.

² 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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").



export from the United States to Micei in Macedonia. To further facilitate these purchases, Micei also contacted Montgomery and provided information on the items to be ordered and their approximate cost, and identified the vendors from which to order them. With Micei's knowledge and/or permission, Montgomery operated or held himself out as Micei's employee or agent, including indicating in an email to a U.S. supplier that Micei had a U.S. regional office in Seattle, Washington, where Montgomery was located, and that Micei was interested in forming a distributorship relationship with the supplier. That email was copied to Micei's president and signed by Montgomery with "Micei Int'l Reg[ional] Off[ice]." As part of these actions, Montgomery carried on negotiations concerning, ordered, bought, sold and/or financed various items that were subject to the Regulations and were exported or to be exported from the United States to Micei in Macedonia, and Montgomery benefitted from these transactions, in violation of the Denial Order. The Denial Order is dated September 11, 2000, and was published in the Federal Register on September 22, 2000 (65 Fed. Reg. 57,313). Under the terms of the Denial Order, Montgomery "may not directly or indirectly, participate in any way in 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, including ... [c]arrying 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 ... [b]enefitting 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." The Denial Order is effective until January 22, 2009, and continued in force at the time of the aforementioned actions. In so doing, Micei committed seven violations of Section 764.2(b) of the Regulations.

Charges 8-14 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

As described in further detail in the attached schedule of violations, which is incorporated herein by reference, on seven occasions between on or about July 2, 2003 and on or about October 8, 2003, Micei ordered, bought, sold, used and/or financed various items subject to the Regulations with knowledge that violations of an order issued under the Regulations had occurred, was about to occur, or was intended to occur in connection with the items, namely, the violations by Yuri Montgomery ("Montgomery") of a BIS order denying Montgomery's export privileges under Section 766.25 of the Regulations (the "Denial Order"). Operating as Micei's employee or agent or otherwise for or on its behalf during these transactions, Montgomery carried on negotiations concerning, ordered, bought, sold and/or financed various items that were subject to the Regulations and were exported or to be exported from the United States to Micei in Macedonia, and also benefitted from these transactions, in violation of the Denial Order. The Denial Order is dated September 11, 2000, and was published in the Federal Register on September 22, 2000 (65 Fed. Reg. 57,313). At the time of these actions, Montgomery's export privileges were denied by the Denial Order. Micei knew that Montgomery was subject to the Denial Order because, inter alia, on November 6 and 13, 2003, Iki Malinkovski, then identified as a vice president of Micei, told BIS Special Agents that he was aware of the Denial Order on Montgomery and that

Montgomery was subject to the Denial Order until January 2009. In so doing, Micei committed seven violations of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, Micei 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;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Micei 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 766.6 and 766.7). If Micei defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Micei. 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.

Micei is hereby notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. (Regulations, Section 766.6). Micei 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).

Micei is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Micei 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 Micei have a proposal to settle this case, Micei's representative should transmit it to 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, Micei'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

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

40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of Micei's answer must be served on BIS at the following address:

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

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas Madigan" followed by a stylized flourish.

Thomas Madigan
Director
Office of Export Enforcement

Schedule of Violations – Micei International

Date	Charges	Item	Value	Violation	Consignee
July 2, 2003	1, 8	61 pair Magnum boots	\$3,355	764.2(b); 764.2(e)	Micei, Int'l
July 18, 2003	2, 9	2 firing range clearing devices	\$1,136	764.2(b); 764.2(e)	Micei, Int'l
Aug. 5, 2003	3, 10	10,800 pair boots	RFQ	764.2(b); 764.2(e)	Micei, Int'l (intended)
Aug. 5, 2003	4, 11	45 pair Oxford shoes, 5 remote strobe tubes	\$2,562	764.2(b); 764.2(e)	Micei, Int'l
Aug. 13, 2003	5, 12	150 shirts	\$1,744	764.2(b); 764.2(e)	Micei, Int'l
Sept. 9, 2003	6, 13	2 load binder, 1 ratchet strap, 1 binder chain, 1 safety shackle	\$147.53	764.2(b); 764.2(e)	Micei, Int'l
Oct. 8, 2003	7, 14	Items in Order # 25473620/017	\$5,723.31	764.2(b); 764.2(e)	Micei, Int'l