

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Nyema E. Weli )  
1410 Grovehurst Drive )  
Marietta, Georgia 30062 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO NYEMA E. WELI

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Nyema E. Weli (“Weli”), of its intention to initiate an administrative proceeding against him 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 issuance of a proposed charging letter to Weli that alleged that he committed six violations of the Regulations. Specifically, these charges are:

<sup>1</sup> The violations alleged to have been committed occurred during 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations. *See* 15 C.F.R. Parts 730-774 (2005). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

**Charges 1-3**

**15 C.F.R. § 764.2(c): Attempted Export of Armored Vehicles from the United States to Nigeria without the Required License**

On three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli attempted a violation of the Regulations by attempting to export items subject to the Regulations to Nigeria without the required Department of Commerce license. Specifically, Weli attempted to export five armored vehicles, items subject to the Regulations, classified under Export Control Classification Number 9A018.b, and controlled for export to Nigeria for national security and regional stability reasons, without the export licenses required by Sections 742.4 and 742.6 of the Regulations. In engaging in this activity, Weli committed three violations of Section 764.2(c) of the Regulations.

**Charges 4-6**

**15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements**

On three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Weli failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with Weli's attempted export of armored vehicles described in Charges 1-3, above. In so doing, Weli committed three violations of Section 764.2(i).

WHEREAS, BIS and Weli 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 \$35,000 is assessed against Weli. Weli shall pay \$2,500 to the Department of Commerce on or before December 28, 2007. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$32,500 shall be suspended for a period of one year from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, Weli has

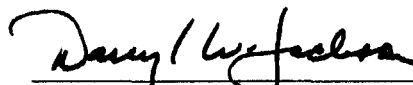
committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of \$2,500, described above, in a timely manner.

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, Weli 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 Weli. Accordingly, if Weli should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Weli's export privileges 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 9<sup>th</sup> day of July, 2007.

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

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In the Matter of: )  
 )  
Nyema E. Weli )  
1410 Grovehurst Drive )  
Marietta, Georgia 30062 )  
 )  
Respondent \_\_\_\_\_ )

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Nyema E. Weli ("Weli") and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),<sup>2</sup>

WHEREAS, BIS has notified Weli of its intention to initiate an administrative proceeding against him, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Weli that alleged that he committed six violations of the Regulations, specifically:

<sup>1</sup> The violations alleged to have been committed occurred during 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2005). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Settlement Agreement  
Nyema E. Weli  
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**Charges 1-3****15 C.F.R. § 764.2(c): Attempted Export of Armored Vehicles from the United States to Nigeria without the Required License**

On three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli attempted a violation of the Regulations by attempting to export items subject to the Regulations to Nigeria without the required Department of Commerce license. Specifically, Weli attempted to export five armored vehicles, items subject to the Regulations, classified under Export Control Classification Number 9A018.b, and controlled for export to Nigeria for national security and regional stability reasons, without the export licenses required by Sections 742.4 and 742.6 of the Regulations. In engaging in this activity, Weli committed three violations of Section 764.2(c) of the Regulations.

**Charges 4-6****15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements**

On three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Weli failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with Weli's attempted export of armored vehicles described in Charges 1-3, above. In so doing, Weli committed three violations of Section 764.2(i).

WHEREAS, Weli has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Weli 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, Weli enters into this Agreement voluntarily and with full knowledge of his rights;

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

Settlement Agreement  
Nyema E. Weli  
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WHEREAS, Weli neither admits nor denies the allegations contained in the proposed charging letter;

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Weli in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. Weli shall be assessed a civil penalty in the amount of \$35,000.

Weli shall pay \$2,500 to the U.S. Department of Commerce on or before December 28, 2007. Payment of the remaining \$32,500 shall be suspended for a period of one year from the date of entry of the Order and thereafter shall be waived, provided that during the period of suspension, Weli has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of \$2,500, described above, in a timely manner.

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 Weli. Failure to make timely payment of the civil penalty set forth above may result in

**Settlement Agreement****Nyema E. Weli**

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the denial of all of Weli'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, Weli 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 and timely payment of the \$2,500 civil penalty, BIS will not initiate any further administrative proceeding against Weli 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

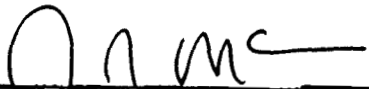
Settlement Agreement  
Nyema E. WelI  
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Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances 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.

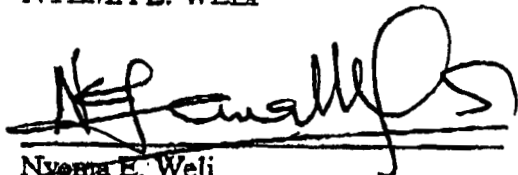
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

  
\_\_\_\_\_  
John McKenna  
Acting Director  
Office of Export Enforcement

Date: 6/27/07

NYEMA E. WELI

  
\_\_\_\_\_  
Nyema E. WelI

Date: 6/25/07



PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Nyema E. Weli  
1410 Grovehurst Drive  
Marietta, GA 30062

Dear Mr. Weli:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Nyema E. Weli ("Weli"), have committed six 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 Weli committed the following violations:

**Charges 1-3            15 C.F.R. § 764.2(c): Attempted Export of Armored Vehicles from the United States to Nigeria without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli attempted a violation of the Regulations by attempting to export items subject to the Regulations to Nigeria without the required Department of Commerce license. Specifically, Weli attempted to export five armored vehicles, items subject to the Regulations, classified under Export Control Classification Number 9A018.b, and controlled for export to Nigeria for national security and regional stability reasons, without the export licenses required by Sections 742.4 and 742.6 of the Regulations. In engaging in this activity, Weli committed three violations of Section 764.2(c) of the Regulations.

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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 in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2007 Regulations set forth 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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 Fed. Reg. 45,273 (Aug. 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000) ("IEEPA")). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

**Charges 4-6            15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements**

On three occasions between on or about July 5, 2005 and on or about July 22, 2005, Weli failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Weli failed to retain documents including export control documents, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, and/or other pertinent documents, in connection with Weli's attempted export of armored vehicles described in Charges 1-3, above. In so doing, Weli committed three violations of Section 764.2(i).

\* \* \* \* \*

Accordingly, Weli is hereby notified that an administrative proceeding is instituted against him 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 \$11,000 per violation;<sup>3</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Weli 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If Weli defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Weli. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Weli is further notified that it is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Weli is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Weli have a proposal to settle this case, Weli or his representative should transmit it to the attorney representing BIS named below.

Weli is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Weli 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/>.

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<sup>3</sup> 15 C.F.R. § 6.4(a)(2) (2005).

Nyema E. Weli  
Proposed Charging Letter  
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The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Weli'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 Weli's answer must be served on BIS at the following address:

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

Thea D. R. Kendler is the attorney representing BIS in this case; any communications that Weli may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

John McKenna  
Acting Director  
Office of Export Enforcement