



DEC - 6 2001

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Alexander Zisman
Jet Info Systems
6 Krasnoproletarskaya Street
Moscow, Russia
103006

Dear Mr. Zisman:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that as described below, you have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2001)) (the Act).²

¹ The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations, (15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996) (hereinafter "the former Regulations")), and 15 C.F.R. Parts 768-799 (1997)). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 *Federal Register* publication also 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 and the Regulations define the various violations that BXA alleges occurred. The Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations then in effect under the International Emergency Economic Powers Act (50 U.S.C. A. §§ 1701 - 1706 (1991 & Supp. 2001)) (IEEPA). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.



Facts constituting violations:

Charge 1

On or about December 27, 1996. IBM Deutschland Informationssysteme GmbH reexported a RS/6000 SP2 Model 9076-308 computer from Germany to the Netherlands. On or about February 21, 1997, the computer was reexported from the Netherlands to the Russian Federal Nuclear Center, Russian Research Institute of Experimental Physics (Arzamas-16), Russia. No license was obtained for the reexport. The RS/6000 SP2 Model 9076-308 computer was manufactured abroad, but was subject to the Regulations and required BXA authorization under Section 734.3 of the Regulations. You, acting as a representative of OFORT, the Russian buyer for the computer, arranged for the transport of the computer from Germany to the Netherlands and from the Netherlands to Arzamas-16. BXA alleges that, by arranging for the transport of the computer to Arzamas-16 without the required BXA license, you aided or abetted the doing of an act prohibited by the Act, the Regulations, or any order, license or authorization issued thereunder, thereby violating Section 764.2(b) of the Regulations.

Charge 2

In connection with the reexport referenced in Charge 1 above, you knew or had reason to know that a license was not obtained for the reexport. BXA alleges that by arranging for the transport of the computer subject to the Regulations knowing or having reason to know that a violation of the Act, the Regulations, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item, you violated Section 764.2(e) of the Regulations.

BXA alleges that you committed one violation each of Sections 764.2(b) and 764.2(e) of the Regulations, for a total of two violations.

Accordingly, you are hereby notified that an administrative proceeding is instituted against you 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 \$1 1,000 per violation (see Section 764.3(a)(1) of the Regulations and 15 C.F.R. §6.4(a)(3)(2001));

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

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

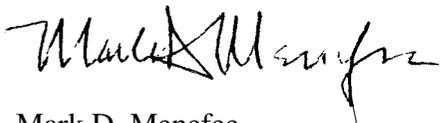
Copies of relevant Parts of the Regulations are enclosed.

If you fail 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.

You are further notified that you are entitled to an agency hearing on the record as provided **by** Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with your answer, to be represented by counsel, and to seek a consent settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Accordingly, your answer should be tiled with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of your answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Mi-Yong Kim, Esq., Room 3839" below the address and all communication with BXA concerning this matter should be directed to Ms. Kim. Ms. Kim may be contacted by telephone at (202) 482-53 11.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Menefee". The signature is fluid and cursive, with a large, stylized initial "M".

Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

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

In the Matter of:)
)
Alexander Zisman)
2 Flotskaya, #81)
Moscow, Russia) OI-BXA-21
125565)
)
)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Alexander Zisman (“Zisman”) and the Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2002)) (“Regulations”),’ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).*

¹ The Regulations governing the violations at issue are found in the 1996 and 1997 versions of the Code of Federal Regulations, (15 C.F.R. Parts 768-799 (1996), as amended (61 **Fed. Reg.** 12714, March 25, 1996) (hereinafter “the former Regulations”)), and 15 C.F.R. Parts 768-799 (1997)). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. As an interim measure that was part of the transition to newly restructured and reorganized Regulations, the March 25, 1996 **Federal Register** publication also 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 and the Regulations **define** the various violations that BIS alleges occurred. The Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through

WHEREAS, BIS has initiated an administrative proceeding against Zisman pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a charging letter alleging that Zisman violated Sections 764.2(b) and 764.2(e) of the Export Administration Regulations; specifically, that Zisman arranged for the transportation of computers from Germany to the Netherlands, and from the Netherlands to the Russian Federal Nuclear Center, Russian Research Institute of Experimental Physics (**Arzamas-16**), Russia, without obtaining the necessary license for the shipment and that Zisman knew or had reason to know that no such license was obtained;

WHEREAS, Zisman has reviewed the 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, Zisman fully understands the terms of this Settlement Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement implementing this Settlement Agreement (“Order”);

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

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

Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 14, 2002 (67 *Fed. Reg.* 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

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

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

WHEREAS, Zisman agrees to be bound by the Order, when entered;

NOW THEREFORE, Zisman and **BIS** agree as follows:

1. BIS has jurisdiction over Zisman, under the Regulations, in connection with the matters alleged in the charging letter.
2. BIS and Zisman agree that the following sanctions shall be imposed against Zisman in complete settlement of the alleged violations of the Regulations set forth in the charging letter:
 - a. Zisman shall be assessed a civil penalty in the amount of \$20,000 which shall be paid to the U.S. Department of Commerce within 30 days **from** the date of entry of the Order.
 - b. Zisman and all of his successors or assigns, and, when acting for or on behalf of Zisman, his **officers**, representatives, agents or employees may not, for a period of five years from the date of entry of the 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.

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

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Zisman in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. Zisman understands that BIS will make the charging letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. BIS and Zisman agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, BIS and Zisman 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.

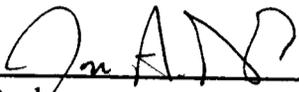
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement serve to bind, constrain or otherwise limit any action 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 BIS only when the Assistant Secretary of Commerce for Export Enforcement approves it by entering an Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

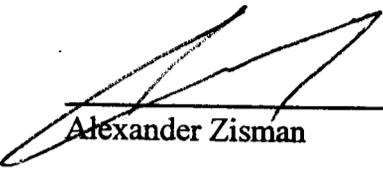
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

ALEXANDER ZISMAN



Jon A. Dyck
Chief Counsel
Office of Chief Counsel
for Industry and Security



Alexander Zisman

Date: 11/21/02

Date: 13.11.02

on allegations that Zisman violated Sections 764.2(b) and 764.2(e) of the Regulations; specifically, that Zisman arranged for the transportation of computers **from** Germany to the Netherlands, and from the Netherlands to the Russian Federal Nuclear Center, Russian Research Institute of Experimental Physics (Arzamas-16), Russia, without obtaining the necessary license for the shipment and that Zisman knew or had reason to know that no such license was obtained; and

BIS and Zisman having 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, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$20,000 is assessed against Zisman, 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, Zisman shall 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 for a period of five years from the date of this Order, Zisman, his successors

establish the procedures that apply to this matter.

or assigns, and when acting for or on behalf of Zisman, his officers, representatives, agents or employees (“denied person”) may not, directly or indirectly, participate 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. 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.

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 which 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 Zisman by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

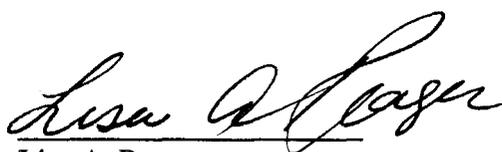
SIXTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the

foreign-produced direct product of U.S.-origin technology.

SEVENTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

EIGHTH, that the 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.



Lisa A. Prager
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 4th day of December 2002.