



## Corporate Officers Charged Personally for Export Violations

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A South Carolina company, Streit USA Armoring LLC (“Streit USA”), along with two of its executive officers and its UAE affiliates, were charged with export control violations in connection with the sale of armored vehicles to the United Arab Emirates and other countries. This is yet another instance in which law enforcement officials are using enforcement actions against individuals in their personal capacities to enforce the U.S. export laws.

According to Bureau of Industry and Security (“BIS”) charging documents, Streit USA and its two UAE affiliates transferred U.S.-origin vehicles retrofitted with ballistic steel and bullet proof glass to the UAE and other countries in at least nine instances in violation of US export laws. Violations alleged include exporting the controlled vehicles to Canada with knowledge that the vehicles would be reexported to other countries without the requisite reexport authorization, and the reexport of U.S.-origin vehicles from the UAE to other destinations without requisite reexport authorization.

What is noteworthy in the case is that the company’s Chairman and CEO Guerman Goutorov, and Vice President and Director Eric Carlson, were also charged in their individual capacities. Charges against the individuals include causing, aiding and abetting unlicensed transfers in violation of §764.2(b) of the Export Administration Regulations (Guerman) and causing, aiding and abetting a false statement to BIS in violation of §764.2(b). The individuals each had separate charging letters, Enforcement Orders, Settlement Agreements and penalties.

The parties (entities and individuals) agreed to a total of \$3.5 million in penalties, of which \$1.5 million was suspended subject to the respondents not committing further export violations during a three year probationary period.

This case is yet another example of officials pursuing claims against individuals as additional leverage in enforcing the export laws. Other recent cases involving persons individually charged for export violations include Timothy Gormley,<sup>[1]</sup> Peter Gromacki<sup>[2]</sup> and LeAnne Lemeister,<sup>[3]</sup> to name just a few. <sup>[4]</sup> In some instances the individuals were acting in their capacities as employees (Gormley) or officers (Goutorov and Carlson) of exporting companies, and in others they were acting alone (Gromacki)<sup>[5]</sup> In one instance the employee was a senior export compliance officer and empowered official of a major U.S. defense contractor (Lemeister). Many of the cases against individuals are criminal prosecutions with significant financial penalties and prison sentences (Timothy Gromley was sentenced to 42 months imprisonment). In tandem with this the Justice Department recently issued its widely publicized memorandum stating its intention to increase focus on the prosecution of individuals within corporations who are responsible for culpable conduct.<sup>[6]</sup>

Such cases reinforce the importance of following fundamental compliance practices in your exporting activities – these protect not just the company but the individuals involved as well. These fundamentals have been discussed previously in these articles but they bear repeating: (i) proper classification of products being exported; (ii) compliance with licensing requirements (including licensing conditions and provisos); (iii) proper agreement administration for TAA's, MLA's and other authorizations; (iv) adoption of an Export Compliance Program with written policies and procedures; (v) employee training; (vi) procedures for screening against prohibited parties, prohibited countries and prohibited end-uses; (vii) compliance with export recordkeeping requirements; (viii) periodic compliance audits; and (ix) taking prompt remedial action in the event of suspected violations.

[1] See <http://www.justice.gov/usao-edpa/pr/north-wales-man-sentenced-illegally-exporting-goods>.

[2] See <https://www.fbi.gov/newyork/press-releases/2012/four-individuals-charged-in-the-southern-district-of-new-york-with-exporting-various-goods-from-the-united-states-to-iran-and-china>

[3] See <http://www.state.gov/t/pm/rls/othr/misc/218216.htm>.

[4] See also the recent conviction of Mozaffar Khazaei in the US District Court for the District of Connecticut on October 23, 2015 - <http://www.justice.gov/opa/pr/former-connecticut-resident-sentenced-over-eight-years-prison-attempting-send-us-military>, and the recent convictions of Alexander Posobilov, Shavkat Abdullaev and Anastasia Diatlova in the Eastern District of New York on October 26, 2015 - <http://www.justice.gov/opa/pr/three-defendants-convicted-conspiring-illegally-export-controlled-technology-russian-military>.

[5] In a related area (Customs enforcement), the U.S. Court of Appeals for the Federal Circuit held that a company's president can be personally liable for Customs violations. See United States v. Trek Leather, Inc. et al., No. 11-1527 (Fed. Cir.) 2014.

[6] See Memorandum by U.S. Deputy Attorney General Sally Quillian Yates Regarding Individual Accountability For Corporate Wrongdoing dated September 9, 2015, available at:

<http://www.justice.gov/dag/file/769036/download>. The Memorandum sets forth the following six key steps to strengthen Justice's prosecution of individual corporate wrongdoing: 1. To be eligible for any cooperation credit, corporations must provide to the Department all relevant facts about the individuals involved in corporate misconduct. 2. Both criminal and civil corporate investigations should focus on individuals from the inception of the investigation. 3. Criminal and civil attorneys handling corporate investigations should be in routine communication with one another. 4. Absent extraordinary circumstances, no corporate resolution will provide protection from criminal or civil liability for any individuals. 5. Corporate cases should not be resolved without a clear plan to resolve related individual cases before the statute of limitations expires and declinations as to individuals in such cases must be memorialized. 6. Civil attorneys should consistently focus on individuals as well as the company and evaluate whether to bring suit against an individual based on considerations beyond that

individual's ability to pay.

## **Related People**

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