

## Paying Attention During ICE 'Outreach' Visits

*Law360, New York (April 17, 2012, 12:52 PM ET)* -- As illustrated by three recent export enforcement actions, when armed government enforcement agents come to your door with PowerPoint slides, pay close attention. On March 8, 2012, the U.S. Department of Commerce's Bureau of Industry and Security and the U.S. Attorney's Office for the District of Wyoming announced settlements of three related cases involving illegal exports to Syria. The cases involved an increasingly common enforcement tool, the U.S. government "outreach" visit.

According to government documents in the case, Powerline Components Industries, a Wyoming company, sold diesel engine parts designated as "EAR99" (i.e., items subject to the U.S. Export Administration Regulations but not specifically described in any Export Control Classification Number) from the United States to Syria without export licenses.

Under General Order No. 2 of May 14, 2004, export control licenses were required for the export of those items to Syria. In the course of the transaction, the company's freight forwarder refused to make the shipment. Moreover, the freight forwarder sent the company a copy of the U.S. Office of Foreign Assets Control Web guidance on the Syria sanctions program. After learning of the Syrian sanctions, the company allegedly switched freight forwarders (to a forwarder recommended by the Syrian buyer) and shipped the goods to Syria via the United Arab Emirates.

In any export control enforcement case, the government must prove that the violator was aware of the rules at the time of the violation. In this case, right around the time of the export transactions, the company received an "outreach visit" from the U.S. Department of Homeland Security, Immigration and Customs Enforcement under ICE's "Shield America" program. ICE agents carry a gun, a badge and, increasingly, PowerPoint presentations. Agents from ICE field offices around the country conduct visits informing exporters of the export rules and providing tips for compliance. Other agencies with export enforcement authority, including BIS and its enforcement arm, the Office of Export Enforcement, also conduct outreach visits.

If the visit to Powerline was like typical outreach actions, the ICE agents explained current export control regulations, including the Syrian embargo, in some detail, and probably left behind copies (or links to the online versions) of the regulations. When Powerline's export to Syria subsequently came to light, the ICE outreach visit (combined with the company's regular freight forwarder refusing the shipment) presumably provided the government plenty of proof that Powerline conducted the prohibited transaction with the requisite mens rea under the regulations.

To settle the resulting violations, Powerline agreed to pay a \$60,000 civil penalty in exchange for a deferred prosecution agreement with the U.S. Attorney's Office for the District of Wyoming. The penalty also includes an order denying Powerline a range of export privileges, but the denial order is suspended for a three-year probationary period and will be waived if Powerline does not commit any violations during the probation period and otherwise complies with the deferred prosecution agreement. The BIS order in the case may be found online [here](#).

In a related case, the Illinois freight forwarder that conducted the prohibited export, R.I.M. Logistics Ltd., agreed to pay \$50,000 to settle charges that it violated 15 C.F.R. § 764.2(b), which prohibits causing, aiding, or abetting acts prohibited by the EAR. See [here](#). Specifically, R.I.M. was charged with being the freight forwarder on Powerline's export and attempted export of the EAR99 diesel engine parts from the United States to Syria via the UAE. In settling the case, R.I.M. neither admitted nor denied the allegations.

In the other related case, Powerline's sales manager agreed to pay \$75,000 to settle charges that he negotiated and arranged the illegal Syrian exports. See [here](#).

The principal lesson of these cases should have been obvious but often needs repeating: Pay attention when your government says not to export your goods in violation of U.S. law.

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