



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

In the Matter of:

Walter Anders

10701 Huntersville Commons Drive
Suite C
Huntersville, NC 28078

Terand, Inc.

10701 Huntersville Commons Drive
Suite C
Huntersville, NC 28078

Respondents

Order Relating to
Walter Anders and Terand, Inc.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Walter Anders (“Anders”) and Terand, Inc. (“Terand”) (collectively, referred to as “Terand/Anders” or the “Respondents”) of its intention to initiate an administrative proceeding against Respondents 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 Proposed Charging Letter to Respondents that alleges that Respondents committed eight violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The violations alleged occurred in 2012. The Regulations governing the violations at issue are found in the 2012 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2016 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (available at <http://uscode.house.gov/>). 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 4, 2016 (81 Fed. Reg. 52587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).

Charges 1 - 8 15 C.F.R. § 764.2(b) – Causing, Aiding, and/or Abetting Unlicensed Exports of Controlled Carbon Fiber

On at least eight occasions between on or about April 5, 2012, and on or about December 1, 2012, Terand/Anders caused, aided, and/or abetted the export of approximately 6,557 kg of U.S.-origin T300 carbon fiber to Singapore without the required BIS licenses. The T300 carbon fiber is subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 1C210.a, and controlled for nuclear proliferation reasons, and was valued at approximately \$288,736. Each of the eight exports required a license pursuant to Section 742.3 of the Regulations.

Terand/Anders’ involvement in the transactions began soon after Performance Engineered Nonwovens, of Middletown, NY, was informed by BIS that its license to export T300 carbon fiber to Singapore was revoked based on concerns regarding the recipients of the items. Performance Engineered Nonwovens thereafter sought to camouflage its involvement in unlicensed exports of the carbon fiber to Singapore. Within weeks of the license revocation, Terand/Anders had agreed--following discussions between Anders, Terand’s president and sole employee, and Performance Engineered Nonwovens’ president, Peter Gromacki--that Terand would falsely act as the U.S. exporter of record for exports of the items to Singapore in return for a \$1,400 commission for each successful export on Performance Engineered Nonwovens’ behalf.

Aware of the license requirement, Terand/Anders took various actions to cause, aid, and abet unlicensed exports of the items to Singapore, while seeking to minimize the risk that the U.S. Government would learn of Performance Engineered Nonwovens’ involvement in the transactions. Terand/Anders created and issued commercial invoices on Terand letterhead that falsely named Terand as the exporter and falsely stated that: “This commodity technology exported from the United States is in accordance with the Export Administration Regulations.”

Terand/Anders also acted as the intermediary between Performance Engineered Nonwovens/ Gromacki and the freight forwarder, providing instructions to the forwarder, signing any required shipping documents, and receiving status reports on the progress of exports to Singapore. In addition, Terand’s name appeared as the U.S. Principal Party in Interest on each of the Shippers Export Declarations filed with the U.S. Government in connection with the eight exports at issue, including after the customer in Singapore refused to place additional purchase orders through Terand after the first five of the exports. On or about September 28, 2012, Performance Engineered Nonwovens/ Gromacki assured Terand/Anders that their crucial role in facilitating the unlawful exports, and their compensation for doing so, could nonetheless continue:

Starting with today’s shipment, I accepted [the purchase order] under PEN [Performance Engineered Nonwovens] name but Terand can continue to serve as exporter of record as you have been doing.... You continue to play a crucial role. I cannot export without your help and hence the commission checks will continue to flow in your direction. I shall forward you a copy of each PO.

Terand/Anders did, in fact, continue to falsely act as the U.S. exporter of record for the remaining three exports at issue.

In so causing, aiding, and/or abetting eight exports of the items without the required BIS export licenses, Terand and Anders committed eight violations of Section 764.2(b) of the Regulations, for which they are jointly and severally liable.

WHEREAS, BIS and Respondents 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;

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

IT IS THEREFORE ORDERED:

FIRST, for a period of eight (8) years from the date of this Order, Walter Anders, with last known address 10701 Huntersville Commons Drive, Suite C, Huntersville, NC 28078, and when acting for or on his behalf, his successors, assigns, employees, representatives, or agents, and Terand, Inc., with a last known address of 10701 Huntersville Commons Drive, Suite C, Huntersville, NC 28078, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents (each a “Denied Person” and collectively the “Denied Persons”), 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.

SECOND, no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a 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 a 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 a Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from a 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 a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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.

THIRD, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, Respondents shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Respondents' testimonial obligations in any proceeding, nor does it affect their right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SIXTH, this Order shall be served on Respondents, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.³

Issued this 12th day of August, 2016.

Richard R. Majauskas
Deputy Assistant Secretary of Commerce
for Export Enforcement

³ Review and consideration of this matter has been delegated to the Deputy Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2016-19819 Filed: 8/18/2016 8:45 am; Publication Date: 8/19/2016]