



Defense Contractors Agree to Pay \$8 Million to Settle False Claims Act Allegations

On March 28, 2016 the Department of Justice announced that Kilgore Flares Company and one of its subcontractors, ESM Group Inc., have agreed to pay \$6 million and \$2 million, respectively, to resolve the government's allegations that they violated the False Claims Act.

Tennessee-based Kilgore Flares manufactures and sells electronics and energy products. ESM Group, located in New York, manufactures magnesium powder.

It is alleged that from July 2003 through May 2005, ESM knowingly misrepresented the content of ultrafine magnesium powder imported from the PRC in order to avoid paying antidumping duties owed to the United States. At the time of the imports alleged in this case, ultrafine magnesium powder from the PRC was subject to a 305 percent antidumping duty.

It is further alleged that from March 2005 through August 2006, Kilgore used the illegally imported Chinese magnesium powder purchased from ESM in the countermeasure flares it sold to the U.S. Army. The Chinese magnesium powder allegedly violated both the requirement for domestically produced powder and engineering specifications required by the contracts.

Prior to the civil settlements with Kilgore and ESM, five former employees and agents of ESM pleaded guilty to criminal offenses related to the magnesium importation scheme, including ESM's former president. The criminal defendants were ordered to pay more than \$14 million in restitution.

The settlements with Kilgore and ESM were the result of a coordinated effort among the Civil Division's Commercial Litigation Branch, the U.S. Attorney's Office for the Western District of New York, U.S. Army Criminal Investigation Command, Defense Contract Audit Agency, DCIS, U.S. Immigration and Customs Enforcement's HSI Buffalo and U.S. Customs and Border Protection. Additional technical support was provided by the Army Sustainment Command at Rock Island Arsenal, Illinois. and the Army Research, Development and Engineering Command at Picatinny Arsenal, New Jersey.

New Task Force Established

U.S. Customs and Border Protection established Trade Enforcement Task Force last month within CBP's Office of Trade to further protect the American economy and domestic industry. Presently, the task force is focused on issues related to enforcement of antidumping and countervailing duty laws, and interdiction of imported products using forced labor.

The task force enables CBP to leverage new enforcement authorities of the Trade Facilitation and Trade Enforcement Act of 2015, which strengthens CBP's enforcement capabilities and methods to better enforce U.S. trade laws, including antidumping countervailing duty laws. The Act also enhances CBP's efforts to combat the import of counterfeit goods and protect intellectual property rights holders, and eliminates obstacles preventing imports made with forced or child labor into the United States.

By focusing its combined resources through the enforcement task force, CBP will be able to combat illicit traders that illegally exploit American trade and conduct enforcement operations at and beyond the border to ensure U.S. industry can compete on a level playing field.

Commissioner Kerlikowske's Remarks at the Joint Meeting of the American Iron and Steel Institute and the Metals Service Center Institute

In his remarks to the joint meeting of the American Iron and Steel Institute and the Metals Service Center on May 2 Commissioner Kerlikowske stated he knows the impact CBP's policies and actions can have on the metals industry. He assured those in attendance that President Obama and his entire administration share their concerns about unfair, unequal competition for foreign imports. In 2015, CBP, in coordination with ICE/HSI seized over \$900,000 worth of steel products and assessed \$36 million in penalties for violations of AD/CVD orders on steel products. CBP's Base Metal Center became fully operational in March. It is actively enforcing the AD/CVD orders on metal products and working closely with industry to understand trade risks and target evasion to ensure a fair and competitive U.S. metals industry.

If you have knowledge of a violation of U.S. trade laws, please report it by filing an e-Allegation at <https://apps.cbp.gov/eallegations>

0539-0616