

"Once a Gunrunner, Always a Gunrunner"

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A young Miami arms dealer was recently debarred for 14 years after his company, in violation of Defense Acquisition Regulations System (DFARS) Clause 252.225-7007, sold ammunition to the U.S. Army that had been acquired indirectly from a Communist Chinese military company and showed an indifference to the suspension/debarment process that compelled the Army Suspension and Debarment Official to "question whether [he] may ever be determined to be responsible to do business with the Federal Government again."

Efraim Diveroli, 25, of Miami Beach, FL, his company AEY, Inc., and other affiliates schemed to sell AK-47 ammunition that had been manufactured in the People's Republic of China (PRC) between 1962 and 1974, and then sold to Albania, where it was warehoused until the Albanian government sold it to AEY in 2007 through the Military Export and Import Company of Albania (MEICO), a company run by the Albanian Ministry of Defense. Following AEY's sales to the U.S. Army, the ammunition was intended for use by Afghan National Police and the Afghan National Army.

Diveroli's defense—that AEY complied with the prohibition on goods originating from a Communist Chinese military company because the ammunition was purchased directly from the Albanian government in 2007, several decades after it was originally sold to Albania by the Chinese—was undone by the fact that AEY operated an enterprise in Albania for the purpose of repackaging ammunition in a manner that would remove the PRC manufacturer's original markings. AEY completely repackaged the ammunition in paper and cardboard boxes, and then prepared fraudulent certificates of conformance for the U.S. Army showing MEICO, not the Chinese company, as the manufacturer. All told, AEY delivered nearly 100 million rounds of ammunition to the Army during the first year of its contract, supported

Authors

Jon W. Burd
Partner
202.719.7172
jburd@wiley.law

by 35 falsified certificates of conformance.

The fallout for Diveroli and his affiliates has been swift and severe. In March 2008, just over a year after issuing a massive requirements contract to AEY to supply nonstandard ammunition for use in Afghanistan, the Army suspended AEY and Diveroli. In April, the Army issued AEY a show cause notice for failure to comply with DFARS Clause 252.225-7007, and terminated the contract in May. (The U.S. Court of Federal Claims recently denied AEY's claim that the contract had been improperly terminated for default. *See AEY, Inc. v. United States*, Fed. Cl. No. 09-330C (May 24, 2011).) In June, AEY and its officers were indicted in the U.S. District Court for the Southern District of Florida, followed by a superseding indictment in July, for violating the False Statements Act, wire fraud and related conspiracy charges. They entered into guilty pleas one year later, and in January 2011, Diveroli was sentenced to four years in jail. He and AEY also were fined \$750,000 and ordered to pay \$150,000 in restitution to the U.S. Army. The latest chapter in Diveroli's saga was the March 2011 debarment, in which the Army debarred Diveroli and AEY through March 2025.

On a side note, Diveroli's troubles continued in 2010. The U.S. State Department initiated steps to prevent AEY and its officers (including Diveroli) from obtaining licenses needed to buy, sell or broker sales of weapons or ammunition internationally. But in August 2010, while free on bail from his other offenses, Diveroli was arrested in a sting operation by the Bureau of Alcohol, Tobacco and Firearms for attempting to broker arms sales in violation of the International Traffic in Arms Regulations. Diveroli admitted in the sting that he was restricted from participating in international arms deals, but told undercover agents that he had an ownership interest in and "consulted" for numerous arms trading companies that had a "large stock" of ammunition to move—including 120,000 100-round ammunition magazines from Korea and "five to six million rounds of ammunition." According to the criminal complaint, then-24-year-old Diveroli told agents that he kept getting "drawn into the ammunition business" because "once a gunrunner, always a gunrunner."