

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436

SANCTION FOR BREACH OF COMMISSION ADMINISTRATIVE PROTECTIVE ORDER

AGENCY: U.S. International Trade Commission

ACTION: Sanction for breach of Commission administrative protective order.

SUMMARY: Notice is hereby given of the sanction imposed by the Commission for a breach of the administrative protective order ("APO") issued in *Hot Rolled Steel Products from Argentina, China, Indonesia, Kazakstan, the Netherlands, Romania, South Africa, Taiwan, Thailand, and Ukraine (Hot Rolled Steel Products)*, Inv. Nos. 701-TA-404-408 and 731-TA-898-908 (Final). The Commission determined that attorney Bruce Aitken breached the APO in the *Hot Rolled Steel Products* investigations by failing to provide adequate supervision over another attorney who had little experience in the bracketing of business proprietary information ("BPI") and who prepared a public version of a brief containing BPI and served the brief on other parties to the investigations, some of whom were not signatories to the APO. This public reprimand is being issued because the aforementioned breach is the fourth breach for Mr. Aitken occurring within a three year, one month period. On November 14, 2001, the Commission had previously publicly reprimanded Mr. Aitken for the second and third of the four breaches. 66 *Fed. Reg.* 57110 (November 14, 2001).

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone 202-205-3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission can also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: In connection with the *Hot Rolled Steel Products* investigations, Bruce Aitken filed an application for access to APO information with the Commission. In that application, he swore (i) not to disclose without written permission any of the information obtained under the APO except to certain enumerated categories of approved persons, (ii) to serve all materials containing BPI disclosed under the APO as directed by the Secretary, and (iii) to otherwise comply with the terms of the APO and the Commission's regulations regarding access to BPI. He also acknowledged in the APO that violation of the APO could subject him, and his firm, to disbarment from practice before the Commission, referral to the U.S. Attorney or appropriate professional association, or "[s]uch other administrative sanctions as the Commission determines to be appropriate" 19 C.F.R. § 207.7(d). The Commission granted his application.

The firm with which Mr. Aitken is affiliated, Aitken Irvin Berlin & Vrooman, LLP, is very experienced in Commission practice as is Mr. Aitken, the senior name partner. Mr. Aitken appears frequently before the Commission and has sought access to APO information on a regular basis. He has been found to have previously breached an APO in recent prior investigations. None of these prior breaches was egregious enough to warrant a public reprimand when considered separately, but by the third breach the Commission determined that a public reprimand was warranted for the series of breaches. The Commission found that the series of breaches resulting in the previous public reprimand demonstrated a disturbing and unacceptable pattern of overall failure to safeguard information released

under APO. In spite of the public reprimand at that time, Mr. Aitken substantially participated in the *Hot Rolled Steel Products* investigations with a lawyer who was inexperienced in Commission title VII investigations, but who, despite his inexperience with Commission investigations, was named lead attorney and APO Compliance Officer for the firm. Although Mr. Aitken participated in the drafting of the confidential version of the brief, he did not participate in the preparation of the public version of the brief where historically his firm has committed most of its APO breaches. The Commission found that as the senior name partner in the firm with many years of experience in title VII investigations, Mr. Aitken failed in his obligations under the APO by not participating in the preparation of the public brief and/or supervising the other attorney more closely to prevent the next in a lengthy series of APO breaches that has been caused by various members of Mr. Aitken's firm.

Business proprietary information received from private parties plays an important role in Commission investigations. The Commission's ability to obtain such information depends on the confidence of the submitting parties that their proprietary information will be protected.

Bruce Aitken is reprimanded for breaching the APO in the *Hot Rolled Steel Products* investigations as stated above and for committing multiple APO breaches over a relatively short period of time.

The Commission determined to suspend Mr. Aitken's access to APO information for a period of six months from the date of publication of this notice in the *Federal Register*. In addition, the Commission directs the law firm of Aitken Irvin Berlin & Vrooman, LLP to have at least two attorneys review all documents to be filed with the Commission for APO compliance, to so certify to the Commission on an annual basis, and to continue that practice for five years commencing with the date of the publication of this notice in the *Federal Register*.

The authority for this action is conferred by section 207.7(d) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 207.7(d)).

By order of the Commission.

Marilyn R. Abbott
Secretary

Issued: December 9, 2003