

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Ted R. Baier)
1420 Angela Street)
Key West, Florida 33040)
)
Respondent)

ORDER RELATING TO TED R. BAIER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Ted R. Baier (“Baier”), of its intention to initiate an administrative proceeding against him pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to Baier that alleged that he committed two violations of the Regulations. Specifically, these charges are:

¹ The violations alleged to have been committed occurred during 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2003). The 2006 Regulations govern the procedural aspects of this case.

² Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Charge 1 15 C.F.R. § 764.2(a) - Exporting a Vessel without the Required License

On one occasion, between on or about March 24, 2003 and on or about March 28, 2003, Baier engaged in conduct prohibited by the Regulations when he exported a vessel, an item subject to the Regulations and classified under ECCN 8A992.f, to Cuba without the required Department of Commerce authorization. Pursuant to Section 746.2 of the Regulations, a license is required for the export of such items to Cuba. In so doing, Baier committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation

In connection with the export described in Charge 1, above, between on or about March 24, 2003 and on or about March 28, 2003, Baier transferred, transported, forwarded, or otherwise serviced a vessel exported or to be exported from the United States with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the item. Baier had knowledge that a violation was occurring because, prior to the export, he signed a Coast Guard document indicating his acknowledgment that a Department of Commerce export license was required before any vessel could travel from the United States to Cuba or enter Cuban territorial waters, and he knew no Department of Commerce license had been obtained. In so doing, Baier committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Baier 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, and

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

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$17,000 is assessed against Baier. Baier shall pay \$5,000 to the Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$12,000 shall be suspended for a period of one year from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, Baier has committed no violation of the Act, or any regulation, order, or

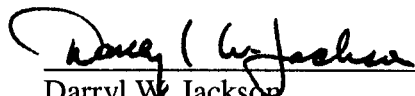
license issued thereunder and has made the payment of \$5,000, described above, in a timely manner.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Baier will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Baier. Accordingly, if Baier should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Baier's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 30th day of March, 2007.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Ted R. Baier)
1420 Angela Street)
Key West, Florida 33040)
)

Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Ted R. Baier ("Baier") and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),²

WHEREAS, BIS has notified Baier of its intention to initiate an administrative proceeding against him, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Baier that alleged that he committed two violations of the Regulations, specifically:

¹ The violations alleged to have been committed occurred during 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2003). The 2006 Regulations govern the procedural aspects of this case.

² Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Settlement Agreement
Ted R. Baier
Page 2 of 5

Charge 1 15 C.F.R. § 764.2(a) - Exporting a Vessel without the Required License

On one occasion, between on or about March 24, 2003 and on or about March 28, 2003, Baier engaged in conduct prohibited by the Regulations when he exported a vessel, an item subject to the Regulations and classified under ECCN 8A992.f, to Cuba without the required Department of Commerce authorization. Pursuant to Section 746.2 of the Regulations, a license is required for the export of such items to Cuba. In so doing, Baier committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation

In connection with the export described in Charge 1, above, between on or about March 24, 2003 and on or about March 28, 2003, Baier transferred, transported, forwarded, or otherwise serviced a vessel exported or to be exported from the United States with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the item. Baier had knowledge that a violation was occurring because, prior to the export, he signed a Coast Guard document indicating his acknowledgment that a Department of Commerce export license was required before any vessel could travel from the United States to Cuba or enter Cuban territorial waters, and he knew no Department of Commerce license had been obtained. In so doing, Baier committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, Baier has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Baier fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Baier enters into this Agreement voluntarily and with full knowledge of his rights;

WHEREAS, Baier states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

WHEREAS, Baier neither admits nor denies the allegations contained in the proposed charging letter;

Settlement Agreement
Ted R. Baier
Page 3 of 5

WHEREAS, Baier wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Baier agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Baier, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Baier in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. Baier shall be assessed a civil penalty in the amount of \$17,000.

Baier shall pay \$5,000 to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment of the remaining \$12,000 shall be suspended for a period of one year from the date of entry of the Order and thereafter shall be waived, provided that during the period of suspension, Baier has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made the payment of \$5,000, described above, in a timely manner.

b. The timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Baier. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Baier's export privileges for a period of one year from the date of imposition of the penalty.

Settlement Agreement
Ted R. Baier
Page 4 of 5

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Baier hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$5,000 civil penalty, BIS will not initiate any further administrative proceeding against Baier in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or

Settlement Agreement
Ted R. Baier
Page 5 of 5

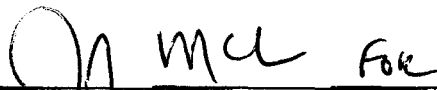
otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

TED R. BAIER



Michael D. Turner
Director
Office of Export Enforcement



Ted R. Baier

Date: 3/18/07

Date: 3-3-07

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ted R. Baier
1420 Angela Street
Key West, Florida 33040

Dear Mr. Baier:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Ted R. Baier ("Baier"), as the Captain of the vessel Lethal Weapon, in your individual capacity, have committed two violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that Baier committed the following violations:

Charge 1 15 C.F.R. § 764.2(a) - Exporting a Vessel without the Required License

On one occasion, between on or about March 24, 2003 and on or about March 28, 2003, Baier engaged in conduct prohibited by the Regulations when he exported a vessel, an item subject to the Regulations and classified under ECCN 8A992.f, to Cuba without the required Department of Commerce authorization. Pursuant to Section 746.2 of the Regulations, a license is required for the export of such items to Cuba. In so doing, Baier committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation

In connection with the export described in Charge 1, above, between on or about March 24, 2003 and on or about March 28, 2003, Baier transferred, transported, forwarded, or otherwise serviced a vessel exported or to be exported from the United States with

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The violations charged occurred during 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations. *See* 15 C.F.R. Parts 730-774 (2003). The 2006 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001 the Act has been in lapse. However, 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), continues the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the item. Baier had knowledge that a violation was occurring because, prior to the export, he signed a Coast Guard document indicating his acknowledgment that a Department of Commerce export license was required before any vessel could travel from the United States to Cuba or enter Cuban territorial waters, and he knew no Department of Commerce license had been obtained. In so doing, Baier committed one violation of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, Baier is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

- The maximum civil penalty allowed by law of up to \$11,000 per violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Baier fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7 (2006). If Baier defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Baier. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Baier is further notified that he is entitled to an agency hearing on the record if Baier files a written demand for one with his answer. *See* 15 C.F.R. § 766.6 (2006). Baier is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. 15 C.F.R. §§ 766.3(a) and 766.4 (2006).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2006). Should Baier have a proposal to settle this case, Baier or his representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Baier's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street

³ *See* 15 C.F.R. § 6.4(a)(4) (2003)), *as supplemented by* 68 Fed. Reg. 4,380 (Jan. 29, 2003), *and* 68 Fed. Reg. 69,001 (Dec. 11, 2003).

Ted R. Baier
Proposed Charging Letter
Page 3

Baltimore, Maryland 21202-4022

In addition, a copy of Baier's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Thea D. R. Kendler
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Thea D. R. Kendler is the attorney representing BIS in this case; any communications that Baier may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement