

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

\_\_\_\_\_  
In the Matter of: )  
 )  
BJ Services Co. )  
4601 Westway Park Blvd. )  
Houston, Texas 77041 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO BJ SERVICES CO.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified BJ Services Co. (“BJ Services”), of its intention to initiate an administrative proceeding against BJ Services pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to BJ Services that alleged that BJ Services committed 67 violations of the Regulations. Specifically, these charges are:

<sup>1</sup> The violations alleged to have been committed occurred during 2003, 2004, 2005, 2006, and 2007. The Regulations governing the violations at issue are found in the 2003, 2004, 2005, 2006, and 2007 versions of the Code of Federal Regulations. *See* 15 C.F.R. Parts 730-774 (2003-2007). The 2008 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

**Charges 1-33****15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Valves Without the Required License**

On 33 occasions between on or about March 8, 2003 and February 20, 2006, BJ Services engaged in conduct prohibited by the Regulations by exporting valves and a spare parts kit, items classified under Export Control Classification Number (“ECCN”) 2B350 and controlled for reasons of chemical and biological weapons proliferation, to Colombia, Kazakhstan, Kuwait, Libya, Peru, Saudi Arabia, the United Arab Emirates (“U.A.E.”) and Venezuela without the Department of Commerce license required by Section 742.2 of the Regulations. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab Emirates and Libya. In so doing, BJ Services committed 33 violations of Section 764.2(a) of the Regulations.

**Charges 34-37****15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

On four occasions between on or about December 12, 2005 and February 20, 2006, in connection with the transactions described in Charges 30-33 above, BJ Services sold, transferred and transported valves classified under ECCN 2B350, that were to be exported from the United States to Libya, Peru and Saudi Arabia, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In so doing, BJ Services committed four violations of Section 764.2(e) of the Regulations.

**Charges 38-67****15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

On 30 occasions between on or about April 3, 2006 and July 31, 2007, BJ Services sold, transferred and transported items to be exported from the United States and subject to the Regulations with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, BJ Services sold, transferred and transported valves, which are classified under ECCN 2B350, that were to be exported from the United States to Colombia, Kazakhstan, Mauritania, Mexico, Nigeria, Peru, Saudi Arabia, the U.A.E., and Venezuela, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab Emirates and Libya. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In addition, a freight forwarder provided BJ Services on or about February 15, 2006 with an article, which BJ Services distributed to Customer Service Representatives, describing April 2005 changes to Department of Commerce controls on valves. In so doing, BJ Services committed 30 violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and BJ Services 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 \$800,000 is assessed against BJ Services, which shall be paid to the U.S. 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.

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, BJ Services 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 BJ Services. Accordingly, if BJ Services should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of BJ Services' 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.

  
\_\_\_\_\_  
Kevin Delli-Colli  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 22<sup>nd</sup> day of APRIL, 2009.

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
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BJ Services Co. )  
4601 Westway Park Blvd. )  
Houston, Texas 77041 )  
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Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between BJ Services Co. ("BJ Services") 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 (2008)) (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),<sup>2</sup>

WHEREAS, BJ Services filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

<sup>1</sup> The violations alleged to have been committed occurred during 2003, 2004, 2005, 2006, and 2007. The Regulations governing the violations at issue are found in the 2003, 2004, 2005, 2006, and 2007 versions of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2003-2007). The 2008 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

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

WHEREAS, BIS has issued a proposed charging letter to BJ Services that alleged that it committed 67 violations of the Regulations, specifically:

**Charges 1-33            15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by Exporting Valves Without the Required License**

On 33 occasions between on or about March 8, 2003 and February 20, 2006, BJ Services engaged in conduct prohibited by the Regulations by exporting valves and a spare parts kit, items classified under Export Control Classification Number (“ECCN”) 2B350 and controlled for reasons of chemical and biological weapons proliferation, to Colombia, Kazakhstan, Kuwait, Libya, Peru, Saudi Arabia, the United Arab Emirates (“U.A.E.”) and Venezuela without the Department of Commerce license required by Section 742.2 of the Regulations. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab Emirates and Libya. In so doing, BJ Services committed 33 violations of Section 764.2(a) of the Regulations.

**Charges 34-37            15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

On four occasions between on or about December 12, 2005 and February 20, 2006, in connection with the transactions described in Charges 30-33 above, BJ Services sold, transferred and transported valves classified under ECCN 2B350, that were to be exported from the United States to Libya, Peru and Saudi Arabia, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In so doing, BJ Services committed four violations of Section 764.2(e) of the Regulations.

**Charges 38-67            15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

On 30 occasions between on or about April 3, 2006 and July 31, 2007, BJ Services sold, transferred and transported items to be exported from the United States and subject to the Regulations with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, BJ Services sold, transferred and transported valves, which are classified under ECCN 2B350, that were to be exported from the United States to Colombia, Kazakhstan, Mauritania, Mexico, Nigeria, Peru, Saudi Arabia, the U.A.E., and Venezuela, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab

Emirates and Libya. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In addition, a freight forwarder provided BJ Services on or about February 15, 2006 with an article, which BJ Services distributed to Customer Service Representatives, describing April 2005 changes to Department of Commerce controls on valves. In so doing, BJ Services committed 30 violations of Section 764.2(e) of the Regulations.

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

WHEREAS, BJ Services 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, BJ Services enters into this Agreement voluntarily and with full knowledge of its rights;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against BJ Services in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the voluntary self-disclosure and the proposed charging letter:

a. BJ Services shall be assessed a civil penalty in the amount of \$800,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

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 BJ Services. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of BJ Services' export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, BJ Services 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 \$800,000 civil penalty, BIS will not initiate any further administrative proceeding against BJ Services in connection with any violation of the Act or the Regulations arising out of the transactions identified in the voluntary self-disclosure and 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 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

BJ SERVICES CO.

Thomas Madigan

Thomas Madigan  
Director  
Office of Export Enforcement

Date: April 14, 2009

Margaret Shannon

Margaret Shannon  
Vice President, General Counsel and  
Secretary

Date: April 7, 2009

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

BJ Services Co.  
4601 Westway Park Blvd.  
Houston, Texas 77041

Attention: *J.W. Stewart*  
*Chairman, President & CEO*

Dear Mr. Stewart:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that BJ Services Co. of Houston, Texas ("BJ Services") has committed 67 violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that BJ Services committed the following violations:

**Charges 1-33            15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct by  
Exporting Valves Without the Required License**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on 33 occasions between on or about March 8, 2003 and February 20, 2006, BJ Services engaged in conduct prohibited by the Regulations by exporting valves and a spare parts kit, items classified under Export Control Classification Number ("ECCN") 2B350 and controlled for reasons of chemical and biological weapons proliferation, to Colombia, Kazakhstan, Kuwait, Libya, Peru, Saudi Arabia, the United Arab Emirates ("U.A.E.") and Venezuela without the Department of Commerce license required by Section 742.2 of the Regulations. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab Emirates and Libya. In so doing, BJ Services committed 33 violations of Section 764.2(a) of the Regulations.

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<sup>1</sup> 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, 2004, 2005, 2006 and 2007. The Regulations governing the violations at issue are found in the 2003 through 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2007)). The 2008 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)) ("IEEPA").

**Charges 34-37      15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

On four occasions between on or about December 12, 2005 and February 20, 2006, in connection with the transactions described in Charges 30-33 above (including in pertinent part the attached Schedule of Violations, which is incorporated herein by reference), BJ Services sold, transferred and transported valves classified under ECCN 2B350, that were to be exported from the United States to Libya, Peru and Saudi Arabia, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In so doing, BJ Services committed four violations of Section 764.2(e) of the Regulations.

**Charges 38-67      15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on 30 occasions between on or about April 3, 2006 and July 31, 2007, BJ Services sold, transferred and transported items to be exported from the United States and subject to the Regulations with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, BJ Services sold, transferred and transported valves, which are classified under ECCN 2B350, that were to be exported from the United States to Colombia, Kazakhstan, Mauritania, Mexico, Nigeria, Peru, Saudi Arabia, the U.A.E., and Venezuela, with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the valves. As described in the attached Schedule of Violations, certain of these exports were structured as transshipments through the United Arab Emirates and Libya. BJ Services had knowledge that exports of these items required authorization from the U.S. Government because, inter alia, BJ Services had knowledge of the Regulations and was informed by the supplier of the valves on or about November 15, 2005 that they were classified under ECCN 2B350. In addition, a freight forwarder provided BJ Services on or about February 15, 2006 with an article, which BJ Services distributed to Customer Service Representatives, describing April 2005 changes to Department of Commerce controls on valves. In so doing, BJ Services committed 30 violations of Section 764.2(e) of the Regulations.

\* \* \* \* \*

Accordingly, BJ Services is hereby notified that an administrative proceeding is instituted against it 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 the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;<sup>3</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If BJ Services 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. 15 C.F.R. §§ 766.6 and 766.7 (2008). If BJ Services defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to BJ Services. 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.

BJ Services is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. 15 C.F.R. § 766.6 (2008). BJ Services is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2008).

The Regulations provide for settlement without a hearing. 15 C.F.R. § 766.18 (2008). Should BJ Services have a proposal to settle this case, BJ Services or its representative should transmit it through the attorney representing BIS named below.

BJ Services is further notified that under the Small Business Regulatory Enforcement Flexibility Act, BJ Services may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, BJ Services' 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  
Baltimore, Maryland 21202-4022

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

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<sup>3</sup> International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

BJ Services Co.  
Proposed Charging Letter  
Page 4 of 4

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 BJ Services may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan  
Director  
Office of Export Enforcement