

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

In the Matter of:)
)
Mohammed El-Gamal)
a/k/a Moe El-Gamal)
1409 Barony Lake Way)
Raleigh, NC 27613)
)
Respondent)

ORDER RELATING TO MOHAMMED EL-GAMAL

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Mohammed El-Gamal a/k/a Moe El-Gamal (“El-Gamal”) of its intention to initiate an administrative proceeding against El-Gamal pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to El-Gamal that alleges that he committed four violations of the Regulations. Specifically, the charges are:

Charge 1 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

Between on or about May 26, 2006, and on or about June 8, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 26, 2006, El-Gamal ordered from a U.S. supplier one Dell PowerVault and thirteen blade servers that were classified under Export Classification Control Number (“ECCN”) 4A994, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$38,059.32. These items were purchased to fulfill a contract El-Gamal negotiated and signed on or about August 10, 2005, as the Chief Executive Officer of Applied Technology, Inc. (“ATI”), a Kenansville, North Carolina company, to provide General Electric Company of Libya (“GECOL”) with computer infrastructure, hardware and other related services and commodities to set up a billing system to connect GECOL’s remote regional site via a Digital Subscriber Line (“DSL”) network to the main data system in Tripoli, Libya. El-Gamal placed an order with the U.S. supplier after he received from the ATI project manager in Libya an email dated April 12, 2006, informing him that certain blade servers that had been supplied to GECOL were not functioning properly. When the equipment arrived at ATI’s offices in Kenansville, North Carolina, El-Gamal directed and arranged for the transport of the items for export to GECOL in Libya using a freight forwarder. Thereafter, El-Gamal signed an Air Waybill on June 8, 2006, stating that the delivery address was “General Electricity Company of Libya, Tripoli, Libya,” and authorized transfer of the items to the freight forwarder.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.”

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

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

Between on or about May 30, 2006, and on or about July 11, 2006, El-Gamal ordered or transferred items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was

intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 30, 2006, El-Gamal ordered three bundles of inverse multiplexing for ATM (“IMA”) cards that were classified under ECCN 5A991, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$7,400.00. Each bundle contained three IMA cards. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1.

El-Gamal ordered the items from U.S. suppliers after he learned that the GECOL project needed particular hardware to enable users to connect to the Internet. After receiving the items from the U.S. suppliers, El-Gamal transferred three bundles to ATI employees between on or about May 30, 2006, and on or about July 11, 2006, and directed the employees to hand carry the items to Libya for installation in the GECOL project. On or about July 11, 2006, following El-Gamal’s instructions, the three employees flew from Raleigh, North Carolina, to Libya, with the bundles in their luggage.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.”

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

On or about July 21, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about July 21, 2006, El-Gamal ordered Digital Subscriber Line Access Multiplexer (“DSLAM”) cards that were classified under ECCN 5A992, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$1,440.00. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1. El-Gamal placed his order with a U.S. supplier after he received an email dated July 2, 2006, from an ATI contract employee informing him that the DSLAM cards previously installed in the GECOL project, which had been exported under a Department of Commerce license issued to the manufacturer, would not work with the configuration on the GECOL network. When he received the ordered items, El-Gamal directed an ATI employee to forward three of the cards to an ATI employee in Detroit, Michigan, so that the ATI employee could transport the DSLAM cards to Libya in his luggage during his upcoming flight to Libya on July 25, 2006.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service, of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.” In addition, El-Gamal had knowledge that the DSLAM cards previously exported to the GECOL project had been exported pursuant to a Department of Commerce license that had been obtained by the manufacturer.

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 4 15 C.F.R. § 764.2(g): Misrepresentation and Concealment of Facts in the Course of an Investigation

Between on or about July 26, 2006, and on or about August 31, 2006, El-Gamal made false or misleading statements to BIS special agents in the course of an investigation. Specifically, in relation to the attempted unlicensed export of DSLAM cards in Charge 3, during a telephone interview with BIS special agents on or about July 26, 2006, El-Gamal represented that the cards were to be used for testing purposes and then returned to the United States. El-Gamal continued to make similar representations during an August 31, 2006 interview with BIS. These statements

were false or misleading because the DSLAM cards had been purchased to install in the GECOL network. In so doing, El-Gamal committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and El-Gamal 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, El-Gamal shall be assessed a civil penalty in the amount of \$340,000. El-Gamal shall pay this civil penalty to the U.S. Department of Commerce in seven installments as follows: \$40,000 not later than 30 days from the date of this Order; \$50,000 not later than August 31, 2011; \$50,000 not later than October 31, 2011; \$50,000 not later than December 30, 2011; \$50,000 not later than February 28, 2012; \$50,000 not later than March 30, 2012; and \$50,000 not later than May 31, 2012. If any of these seven installment payments is not fully and timely made in accordance with this payment schedule, any remaining scheduled installment payments shall become due and owing immediately. 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 any payment is not made in full by the due date set forth herein, El-Gamal 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, El-Gamal shall perform an audit of the export controls compliance program of his company Applied Technology, Inc. ("ATI"), as set forth in this paragraph. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of

Commerce, Bureau of Industry and Security, Office of Export Enforcement, Suite 1125, 381 Elden Street, Herndon, VA 20170 (“BIS Washington Field Office”). The audit shall cover the 12-month period beginning on the date of this Order, and the related report shall be due to the BIS Washington Field Office no later than fourteen (14) months from the date of this Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of ATI’s compliance with the Regulations. The EMS sample audit module is available on the BIS web site at <http://www.bis.doc.gov/exportmanagementsystems/pdf/emsmodulev2.pdf>. In addition, where said audit identifies actual or potential violations of the Regulations, El-Gamal must promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation.

FOURTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above, and the timely completion and submission of the results of the audit set forth above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to El-Gamal.

FIFTH, for a period of five (5) years from the date of this Order, Mohammed El-Gamal, a/k/a Moe El-Gamal, with the last known address of 1409 Barony Lake Way, Raleigh, NC 27613, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States

that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SIXTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SEVENTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

EIGHTH, that, as authorized by Section 766.18(c) of the Regulations, the five-year denial period set forth above shall be suspended during a probationary period of five years from the date of this Order, and shall thereafter be waived, provided that during the probationary period under this Order, El-Gamal has made full and timely payment of each civil penalty payment in accordance with the payment schedule set forth above, has timely completed and submitted the results of the audit set forth above, and has committed no other violation of the Act or any regulation, order or license issued thereunder. If El-Gamal does not make full and timely payment of each civil penalty payment in accordance with the payment schedule set forth above, does not timely complete and submit the results of the audit set forth above, or commits another violation

during the probationary period, the suspension may be modified or revoked by BIS and a denial order including a five-year denial period activated against El-Gamal.

NINTH, 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 30 day of June, 2011.

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

In the Matter of:)
)
Mohammed El-Gamal)
a/k/a Moe El-Gamal)
1409 Barony Lake Way)
Raleigh, NC 27613)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Mohammed El-Gamal a/k/a Moe El-Gamal (“El-Gamal”) 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 (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified El-Gamal 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 El-Gamal that alleged

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that El-Gamal committed four violations of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

Between on or about May 26, 2006, and on or about June 8, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 26, 2006, El-Gamal ordered from a U.S. supplier one Dell PowerVault and thirteen blade servers that were classified under Export Classification Control Number ("ECCN") 4A994, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$38,059.32. These items were purchased to fulfill a contract El-Gamal negotiated and signed on or about August 10, 2005, as the Chief Executive Officer of Applied Technology, Inc. ("ATI"), a Kenansville, North Carolina company, to provide General Electric Company of Libya ("GECOL") with computer infrastructure, hardware and other related services and commodities to set up a billing system to connect GECOL's remote regional site via a Digital Subscriber Line ("DSL") network to the main data system in Tripoli, Libya. El-Gamal placed an order with the U.S. supplier after he received from the ATI project manager in Libya an email dated April 12, 2006, informing him that certain blade servers that had been supplied to GECOL were not functioning properly. When the equipment arrived at ATI's offices in Kenansville, North Carolina, El-Gamal directed and arranged for the transport of the items for export to GECOL in Libya using a freight forwarder. Thereafter, El-Gamal signed an Air Waybill on June 8, 2006, stating that the delivery address was "General Electricity Company of Libya, Tripoli, Libya," and authorized transfer of the items to the freight forwarder.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a "prohibited" country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS's website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee's question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee,



“I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.”

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

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

Between on or about May 30, 2006, and on or about July 11, 2006, El-Gamal ordered or transferred items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 30, 2006, El-Gamal ordered three bundles of inverse multiplexing for ATM (“IMA”) cards that were classified under ECCN 5A991, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$7,400.00. Each bundle contained three IMA cards. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1.

El-Gamal ordered the items from U.S. suppliers after he learned that the GECOL project needed particular hardware to enable users to connect to the Internet. After receiving the items from the U.S. suppliers, El-Gamal transferred three bundles to ATI employees between on or about May 30, 2006, and on or about July 11, 2006, and directed the employees to hand carry the items to Libya for installation in the GECOL project. On or about July 11, 2006, following El-Gamal’s instructions, the three employees flew from Raleigh, North Carolina, to Libya, with the bundles in their luggage.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee,



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In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

On or about July 21, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about July 21, 2006, El-Gamal ordered Digital Subscriber Line Access Multiplexer (“DSLAM”) cards that were classified under ECCN 5A992, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$1,440.00. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1. El-Gamal placed his order with a U.S. supplier after he received an email dated July 2, 2006, from an ATI contract employee informing him that the DSLAM cards previously installed in the GECOL project, which had been exported under a Department of Commerce license issued to the manufacturer, would not work with the configuration on the GECOL network. When he received the ordered items, El-Gamal directed an ATI employee to forward three of the cards to an ATI employee in Detroit, Michigan, so that the ATI employee could transport the DSLAM cards to Libya in his luggage during his upcoming flight to Libya on July 25, 2006.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service, of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that



has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.” In addition, El-Gamal had knowledge that the DSLAM cards previously exported to the GECOL project had been exported pursuant to a Department of Commerce license that had been obtained by the manufacturer.

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 4 15 C.F.R. § 764.2(g): Misrepresentation and Concealment of Facts in the Course of an Investigation

Between on or about July 26, 2006, and on or about August 31, 2006, El-Gamal made false or misleading statements to BIS special agents in the course of an investigation. Specifically, in relation to the attempted unlicensed export of DSLAM cards in Charge 3, during a telephone interview with BIS special agents on or about July 26, 2006, El-Gamal represented that the cards were to be used for testing purposes and then returned to the United States. El-Gamal continued to make similar representations during an August 31, 2006 interview with BIS. These statements were false or misleading because the DSLAM cards had been purchased to install in the GECOL network. In so doing, El-Gamal committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, El-Gamal 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, El-Gamal 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, El-Gamal enters into this Agreement voluntarily and with full knowledge of his rights after having consulted with counsel;

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

WHEREAS, El-Gamal neither admits nor denies the allegations contained in the Proposed Charging Letter;



WHEREAS, El-Gamal wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, El-Gamal agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over El-Gamal, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against El-Gamal in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. El-Gamal shall be assessed a civil penalty in the amount of \$340,000. El-Gamal shall pay this civil penalty to the U.S. Department of Commerce in seven installments as follows: \$40,000 not later than 30 days of the date of the Order; \$50,000 not later than August 31, 2011; \$50,000 not later than October 31, 2011; \$50,000 not later than December 30, 2011; \$50,000 not later than February 28, 2012; \$50,000 not later than March 30, 2012; and \$50,000 not later than May 31, 2012. If any of these seven installment payments is not fully and timely made in accordance with this payment schedule, any remaining scheduled installment payments shall become due and owing immediately. Payment shall be made in the manner specified in the attached instructions.

b. El-Gamal shall perform an audit of the export controls compliance program of his company Applied Technology, Inc. ("ATI"), as set forth in this paragraph. The results of the audit, including any relevant supporting materials,



shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Suite 1125, 381 Elden Street, Herndon, VA 20170 ("BIS Washington Field Office"). The audit shall cover the 12-month period beginning on the date of the Order, and the related report shall be due to the BIS Washington Field Office no later than fourteen (14) months from the date of the Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of ATI's compliance with the Regulations. The EMS sample audit module is available on the BIS web site at <http://www.bis.doc.gov/exportmanagementsystems/pdf/emsmodulev2.pdf>. In addition, where said audit identifies actual or potential violations of the Regulations, El-Gamal must promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation.

c. The full and timely payment of the civil penalty in accordance with the payment schedule agreed to in Paragraph 2.a above, and the timely completion and submission of the results of the audit agreed to in Paragraph 2.b above, are hereby made conditions to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to El-Gamal.

d. For a period of five (5) years from the date of the Order, Mohammed El-Gamal, a/k/a Moe El-Gamal, with the last known address of 1409 Barony Lake Way, Raleigh, NC 27613, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United



States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document;
- ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

e. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the five-year denial period set forth in Paragraph 2.d above shall be suspended during a probationary period of five years from the date of the Order, and shall thereafter be waived, provided that during this probationary period under the Order, El-Gamal has made full and timely payment of each civil penalty payment in accordance with the payment schedule agreed to in Paragraph 2.a above, has timely completed and submitted the results of the audit agreed in Paragraph 2.b above, and has committed no other violation of the Act or any regulation, order or license issued thereunder. If El-Gamal does not make full and timely payment of each civil penalty payment in accordance with the payment schedule set forth in



Paragraph 2.a above, does not timely complete and submit the results of the audit set forth in Paragraph 2.b above, or commits another violation during the probationary period, the suspension may be modified or revoked by BIS and a denial order including a five-year denial period activated against El-Gamal.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, El-Gamal 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. El-Gamal also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, for the time period from the date of the Order, if issued, until the later of the date El-Gamal pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement or the date El-Gamal submits the results of the completed compliance audit agreed to in Paragraph 2.b of this Agreement, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter, or in connection with collection of the civil penalty or enforcement of the Agreement and Order, if issued.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, and timely completion and submission of the results of the audit as set forth in Paragraph 2.b above, BIS will not initiate any further administrative proceeding against El-Gamal in connection with any violation of the Act or the

A handwritten signature in black ink, appearing to be 'ME', is located in the bottom right corner of the page.

Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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.

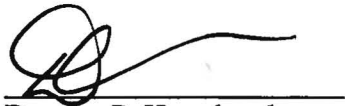
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department 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 issuing 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



Douglas R. Hassebrock
Director
Office of Export Enforcement

Date: 6/27, 2011



Mohammed El-Gamal

Date: 6/22, 2011

Reviewed and Approved by:



R. Daniel Boyce, Esq.
Counsel for Mohammed El-Gamal

Date: 6/22, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mohammed El-Gamal
a/k/a Moe El-Gamal
1409 Barony Lake Way
Raleigh, NC 27613

Dear Mr. El-Gamal:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Mohammed El-Gamal a/k/a Moe El-Gamal (“El-Gamal”), in your individual capacity, have committed four 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 El-Gamal committed the following violations:

Charge 1 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

As set forth in further detail in the attached Schedule of Violations, which is incorporated herein, between on or about May 26, 2006, and on or about June 8, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 26, 2006, El-Gamal ordered from a U.S. supplier one Dell PowerVault and thirteen blade servers that were classified under Export Classification Control Number (“ECCN”) 4A994, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$38,059.32. These items were purchased to fulfill a contract El-Gamal negotiated and signed on or about August 10, 2005, as the Chief Executive Officer of Applied Technology, Inc. (“ATI”), a Kenansville, North Carolina company, to provide General Electric

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Company of Libya (“GECOL”) with computer infrastructure, hardware and other related services and commodities to set up a billing system to connect GECOL’s remote regional site via a Digital Subscriber Line (“DSL”) network to the main data system in Tripoli, Libya. El-Gamal placed an order with the U.S. supplier after he received from the ATI project manager in Libya an email dated April 12, 2006, informing him that certain blade servers that had been supplied to GECOL were not functioning properly. When the equipment arrived at ATI’s offices in Kenansville, North Carolina, El-Gamal directed and arranged for the transport of the items for export to GECOL in Libya using a freight forwarder. Thereafter, El-Gamal signed an Air Waybill on June 8, 2006, stating that the delivery address was “General Electricity Company of Libya, Tripoli, Libya,” and authorized transfer of the items to the freight forwarder.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.”

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

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

As set forth in further detail in the attached Schedule of Violations, which is incorporated herein, between on or about May 30, 2006, and on or about July 11, 2006, El-Gamal ordered or transferred items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained.

Specifically, on or about May 30, 2006, El-Gamal ordered three bundles of inverse multiplexing for ATM (“IMA”) cards that were classified under ECCN 5A991, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$7,400.00. Each bundle contained

three IMA cards. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1.

El-Gamal ordered the items from U.S. suppliers after he learned that the GECOL project needed particular hardware to enable users to connect to the Internet. After receiving the items from the U.S. suppliers, El-Gamal transferred three bundles to ATI employees between on or about May 30, 2006, and on or about July 11, 2006, and directed the employees to hand carry the items to Libya for installation in the GECOL project. On or about July 11, 2006, following El-Gamal's instructions, the three employees flew from Raleigh, North Carolina, to Libya, with the bundles in their luggage.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a "prohibited" country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service of the classification and licensing process and was referred to BIS's website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee's question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted. Specifically, El-Gamal wrote in an email to the ATI employee, "I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license."

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e): Acting with Knowledge of a Violation

As set forth in further detail in the attached Schedule of Violations, which is incorporated herein, on or about July 21, 2006, El-Gamal ordered items that were subject to the Regulations and were to be exported from the United States to Libya, with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. El-Gamal had knowledge that a license was required for the export of these items to Libya pursuant to Part 742.20 of the 2006 Regulations, and that no license had been or would be obtained. Specifically, on or about July 21, 2006, El-Gamal ordered Digital Subscriber Line Access Multiplexer ("DSLAM") cards that were classified under ECCN 5A992, controlled for anti-terrorism reasons for export to Libya, and valued at approximately \$1,440.00. These items were purchased to fulfill the GECOL contract El-Gamal negotiated and signed on or about August 10, 2005, and that is described above in Charge 1. El-Gamal placed his order with a U.S. supplier

after he received an email dated July 2, 2006, from an ATI contract employee informing him that the DSLAM cards previously installed in the GECOL project, which had been exported under a Department of Commerce license issued to the manufacturer, would not work with the configuration on the GECOL network. When he received the ordered items, El-Gamal directed an ATI employee to forward three of the cards to an ATI employee in Detroit, Michigan, so that the ATI employee could transport the DSLAM cards to Libya in his luggage during his upcoming flight to Libya on July 25, 2006.

El-Gamal had knowledge that a license was required for the export of the computer and network equipment to Libya, and that no such license had been or would be obtained. El-Gamal had this knowledge because, inter alia, when he began fulfilling the terms of the GECOL contract, he learned that shipments to Libya were restricted and required a license. When El-Gamal sought a quote from one U.S. supplier on or about July 22, 2005, he received an email from the company clearly stating that Libya was a “prohibited” country and that the U.S. supplier would need the full name and address of the end user in Libya. The U.S. supplier specifically indicated that shipments to Libya may require a license from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), and that El-Gamal may also need to obtain an export license from BIS. Additionally, in August 2005, before this violation occurred, El-Gamal learned from the Director of the Raleigh Export Assistance Center of the U.S. Commercial Service, of the classification and licensing process and was referred to BIS’s website for additional information. Thereafter, in April 2006, El-Gamal responded to an ATI employee’s question about the licensing of exports to Libya by claiming that all the necessary licenses had been granted.

Specifically, El-Gamal wrote in an email to the ATI employee, “I was worried myself as we are not allowed to purchase any equipment for Libya that has a dual use. That is why [a U.S. company] through [an Egyptian company] made the purchase and delivery after they got the license.” In addition, El-Gamal had knowledge that the DSLAM cards previously exported to the GECOL project had been exported pursuant to a Department of Commerce license that had been obtained by the manufacturer.

In so doing, El-Gamal committed one violation of Section 764.2(e) of the Regulations.

Charge 4 15 C.F.R. § 764.2(g): Misrepresentation and Concealment of Facts in the Course of an Investigation

Between on or about July 26, 2006, and on or about August 31, 2006, El-Gamal made false or misleading statements to BIS special agents in the course of an investigation. Specifically, in relation to the attempted unlicensed export of DSLAM cards in Charge 3, during a telephone interview with BIS special agents on or about July 26, 2006, El-Gamal represented that the cards were to be used for testing purposes and then returned to the United States. El-Gamal continued to make similar representations during an August 31, 2006 interview with BIS. These statements were false or misleading because the DSLAM cards had been purchased to install in the GECOL network. In so doing, El-Gamal committed one violation of Section 764.2(g) of the Regulations.

* * * * *

Accordingly, El-Gamal 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 and any other liability sanction or penalty available under law, including, but not limited to 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;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If El-Gamal 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. If El-Gamal defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to El-Gamal. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

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

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should El-Gamal have a proposal to settle this case, El-Gamal or his representative should transmit it to the attorney representing BIS named below.

El-Gamal is further notified that under the Small Business Regulatory Enforcement Flexibility Act, El-Gamal 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, El-Gamal'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
Baltimore, Maryland 21202-4022

³ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Proposed Charging Letter
Mohammed El-Gamal
Page 6 of 7

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

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

R. Elizabeth ("Liz") Abraham is the attorney representing BIS in this case; any communications that El-Gamal may wish to have concerning this matter should occur through her. Ms. Abraham may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

Schedule of Violations

Charge No.	Violation Date(s)	Destination	Commodities	ECCN	Total Value	Violation
1	May 26, 2006 - June 8, 2006	Libya	Dell PowerVault and 13 blade servers	4A994	\$38,059.32	15 C.F.R. 764.2(e)
2	May 30, 2006 - July 11, 2006	Libya	Inverse Multiplexing for ATM (IMA) cards (3 bundles)	5A991	\$7,400.00	15 C.F.R. 764.2(e)
3	July 21, 2006	Libya	Digital Subscriber Line Access Multiplexer (DSLAM) cards	5A992	\$1,440.00	15 C.F.R. 764.2(e)