

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

In the Matter of:

Capintec, Inc.
6 Arrow Road
Ramsey, NJ 07446

Respondent

ORDER RELATING TO
CAPINTEC, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Capintec, Inc., of Ramsey, New Jersey (“Capintec”), of its intention to initiate an administrative proceeding against Capintec 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 Capintec that alleges that Capintec committed one violation of the Regulations. Specifically, the charge is:

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to an Entity List
Organization in Pakistan**

On or about May 19, 2010, Capintec engaged in conduct prohibited by the Regulations when it exported a dose calibrator, an item subject to the Regulations and designated EAR99,³ and valued at approximately \$5,120, from the United States to the Pakistan Atomic Energy Commission (“PAEC”), an entity in Pakistan listed on BIS’s Entity List

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The charged violation occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 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 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

³ EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list, which is set forth at Supplement No. 1 to Part 774 of the EAR. 15 C.F.R. § 774.1 (2010).

set forth in Supplement No. 4 to Part 744 of the Regulations. At all times relevant hereto, PAEC was an organization listed on the Entity List, and a Department of Commerce license was required for this shipment pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. Additionally, on or about February 5, 2010, Capintec received an outreach visit by Special Agents of BIS's Office of Export Enforcement who discussed with Capintec the need to screen all parties to an export transaction against, *inter alia*, BIS's Entity List to determine whether an export license was required. In doing so, Capintec committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Capintec 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, Capintec shall be assessed a civil penalty in the amount of \$23,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

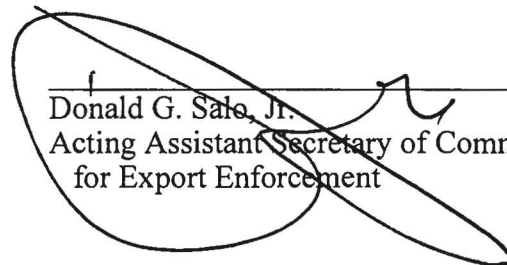
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Capintec will be assessed, in addition 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 full and timely payment of the civil penalty in accordance with the payment schedule 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 Capintec. Accordingly, if Capintec should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order

denying all of Capintec's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

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.


Donald G. Salo, Jr.
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 7ⁿ day of December, 2012.

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

In the Matter of:

Capintec, Inc.
6 Arrow Road
Ramsey, NY 07446

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Capintec, Inc., of Ramsey, New Jersey (“Capintec”), 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 Capintec of its intentions to initiate an administrative proceeding against Capintec, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Capintec that alleges that Capintec committed one violation of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The charged violation occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 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 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to an Entity List
Organization in Pakistan**

On or about May 19, 2010, Capintec engaged in conduct prohibited by the Regulations when it exported a dose calibrator, an item subject to the Regulations and designated EAR99,³ and valued at approximately \$5,120, from the United States to the Pakistan Atomic Energy Commission (“PAEC”), an entity in Pakistan listed on BIS’s Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. At all times relevant hereto, PAEC was an organization listed on the Entity List, and a Department of Commerce license was required for this shipment pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. Additionally, on or about February 5, 2010, Capintec received an outreach visit by Special Agents of BIS’s Office of Export Enforcement who discussed with Capintec the need to screen all parties to an export transaction against, *inter alia*, BIS’s Entity List to determine whether an export license was required. In doing so, Capintec committed one violation of Section 764.2(a) of the Regulations.

* * *

WHEREAS, Capintec has reviewed the Proposed Charging Letter and is aware of the allegation made against it and the administrative sanctions that could be imposed against it if the allegation are found to be true;

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

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

WHEREAS, Capintec neither admits nor denies the allegation contained in the Proposed Charging Letter;

³ EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list, which is set forth at Supplement No. 1 to Part 774 of the EAR. 15 C.F.R. § 774.1 (2010).

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

WHEREAS, Capintec 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 Capintec, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

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

a. Capintec shall be assessed a civil penalty in the amount of \$23,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

b. The full and 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, license exception, permission, or privilege granted, or to be granted, to Capintec. Failure to make full and timely payment of the civil penalty may result in the denial of all of Capintec's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Capintec 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. Capintec also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transaction identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until the date Capintec pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against Capintec in connection with any violation of the Act or the Regulations arising out of the transaction specifically detailed in the Proposed Charging Letter.

5. 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.

6. 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.

7. 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.

8. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.


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 of Export Enforcement

CAPINTEC, INC.



Jessica Bede
President

Date: 11/30/2012

Date: 11.29.12

PROPOSED CHARGING LETTER

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Capintec, Inc.
6 Arrow Road
Ramsey, NJ 07446

*Attention: Jessica Bede
President*

Dear Ms. Bede,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Capintec, Inc. (“Capintec”) of Ramsey, New Jersey, has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS alleges that Capintec committed the following violation:

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to an Entity List
Organization in Pakistan**

On or about May 19, 2010, Capintec engaged in conduct prohibited by the Regulations when it exported a dose calibrator, an item subject to the Regulations and designated EAR99,³ and valued at approximately \$5,120, from the United States to the Pakistan Atomic Energy Commission (“PAEC”), an entity in Pakistan listed on BIS’s Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. At all times relevant hereto, PAEC was an organization listed on the Entity List, and a Department of Commerce

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The violation alleged occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010). The 2012 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 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 15, 2012 (77 Fed. Reg. 49,669 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2000)).

³ EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list, which is set forth at Supplement No. 1 to Part 774 of the EAR. 15 C.F.R. § 774.1 (2010).

license was required for this shipment pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. Additionally, on or about February 5, 2010, Capintec received an outreach visit by Special Agents of BIS's Office of Export Enforcement who discussed with Capintec the need to screen all parties to an export transaction against, *inter alia*, BIS's Entity List to determine whether an export license was required. In doing so, Capintec committed one violation of Section 764.2(a) of the Regulations.

* * *

Accordingly, Capintec 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 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;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Capintec 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. *See* 15 C.F.R. § 766.6. Capintec is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *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 Capintec have a proposal to settle this case, Capintec should transmit it to the attorney representing BIS named below.

Capintec is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Capintec may be eligible for assistance from the Office of the National

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Capintec, Inc.
Proposed Charging Letter
Page 3 of 3

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, Capintec'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

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

Chief Counsel for Industry and Security
Attention: Gregory Michelsen
Room H-3327
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; and communications that Capintec may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482- 5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement