

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

\_\_\_\_\_  
In the Matter of: )  
)  
Primavera Systems, Inc. )  
3 Bala Plaza West, Suite 700 )  
Bala Cynwyd, PA 19004 )  
)  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO PRIMAVERA SYSTEMS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Primavera Systems, Inc. (“Primavera”), of its intention to initiate an administrative proceeding against Primavera pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (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 Primavera that alleged that Primavera committed 12 violations of the Regulations. Specifically, the charges are :

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<sup>1</sup> The violations alleged to have been committed occurred between 2001 and 2003. The Regulations governing the violations at issue are found in the 2001 through 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2007 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1-6 15 C.F.R. § 764.2(b) – Unlicensed Export to Iran without the Required U.S. Government Authorization**

On six occasions between on or about July 11, 2001 and on or about February 13, 2003, Primavera engaged in conduct prohibited by the Regulations by exporting computer software programs, items subject to the Regulations and the Iranian Transactions Regulations (“ITR”) of the Department of the Treasury Office of Foreign Assets Control (“OFAC”) from the United States through the United Arab Emirates (“UAE”) to Iran without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required OFAC authorization. No such authorization was obtained. In so doing, Primavera committed six violations of Section 764.2(a) of the Regulations.

**Charge 7-12 15 C.F.R. § 764.2(i) – Failure to Comply with Recordkeeping Requirements**

On six occasions between on or about July 11, 2001 and or about February 13, 2003 in connection with the transactions listed in Charges 1-6 above, Primavera failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations, Specifically, Primavera failed to retain Shipper’s Export Declaration (“SED”), which are export control documents as defined in Part 772 of the Regulations in connection with Primavera’s export of computer software programs through the UAE to Iran. In so doing, Primavera committed six violations of Section 764.2(i).

WHEREAS, BIS and Primavera 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 \$55,000 is assessed against Primavera, 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.

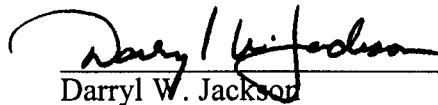
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due

date specified herein, Primavera 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 Primavera. Accordingly, if Primavera should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Primavera's export privileges for a period of one year from the date of entry of this Order.

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

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



Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 8<sup>th</sup> day of May, 2007.

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

In the Matter of:	)
	)
Primavera Systems, Inc.	)
3 Bala Plaza West, Suite 700	)
Bala Cynwyd, PA 19004	)
	)
<u>Respondent</u>	)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Primavera Systems, Inc. ("Primavera"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the "Regulations"),<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>

<sup>1</sup> The violations alleged to have been committed occurred between 2001 and 2003. The Regulations governing the violations at issue are found in the 2001 through 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

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From: Dept Of Commerce Office Of Chief Counsel 202 482 0088

T-828 P.009/008

F-844

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

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

WHEREAS, BIS has issued a proposed charging letter to Primavera that alleged that Primavera committed 12 violations of the Regulations, specifically:

**Charges 1-6 15 C.F.R. §764.2(a) -Unlicensed Export to Iran without the Required U.S. Government Authorization**

On six occasions between on or about July 11, 2001 and on or about February 13, 2003, Primavera engaged in conduct prohibited by the Regulations by exporting computer software programs, items subject to the Regulations and the Iranian Transactions Regulations<sup>3</sup> ("ITR") of the Department of the Treasury's, Office of Foreign Assets Control ("OFAC") from the United States through the United Arab Emirates ("UAE") to Iran without the required U.S. Government authorization<sup>4</sup>. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required OFAC authorization. No such authorization was obtained. In so doing, Primavera committed six violations of Section 764.2(a) of the Regulations.

**Charges 7-12 15 C.F.R. § 764.2(f): Failure to Comply with Recordkeeping Requirements**

On six occasions between on or about July 11, 2001 and on or about February 13, 2003 in connection with the transactions listed in Charges 1-6 above, Primavera failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Primavera failed to retain Shipper's Export Declarations ("SED"), which are export control documents as defined in Part 772 of the Regulations in connection with Primavera's export of computer software programs through the UAE to Iran. In so doing, Primavera committed six violations of Section 764.2(f).

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<sup>3</sup> 31 C.F.R. Part 560 (2001-2003)

<sup>4</sup> Under the Regulations, the export of an item subject to the Regulations that will transit through a country or countries or be transhipped in a country or countries to a new country, or is intended for reexport to the new country, is deemed to be an export to the new country. 15 C.F.R. § 734.2(b)(6).

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Primavera 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:

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a. Primavera shall be assessed a civil penalty in the amount of \$55,000, all of 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 Primavera. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Primavera's 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, Primavera 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 \$55,000 civil penalty, BIS will not initiate any further administrative proceeding against Primavera in connection with any violation of the Act or the Regulations arising out of the transactions identified in the voluntary self-disclosure and the proposed charging letter.

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

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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

  
\_\_\_\_\_  
John McKenna  
Acting Director  
Office of Export Enforcement

Date: 5/4/07

PRIMAVERA SYSTEMS, INC.

  
\_\_\_\_\_  
Leigh Hansson, Esq.  
Benjamin Lindorf, Esq.  
Reed Smith LLP  
Attorneys for Primavera Systems, Inc.

Date: 5/1/07



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Primavera Systems, Inc.  
3 Bala Plaza West, Suite 700  
Bala Cynwyd, PA 19004

Attention: *Mr. Joel Koppelman*  
*CEO*

Dear Mr. Koppelman:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Primavera Systems, Inc.. ("Primavera") of Bala Cynwyd, Pennsylvania, has committed 12 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 Primavera committed the following violations:

**Charges 1-6 15 C.F.R. §764.2(a) -Unlicensed Export to Iran without the Required U.S. Government Authorization**

On six occasions between on or about July 11, 2001 and on or about February 13, 2003, Primavera engaged in conduct prohibited by the Regulations by exporting computer software programs, items subject to the Regulations and the Iranian Transactions Regulations<sup>3</sup> ("ITR") of the Department of the Treasury's, Office of Foreign Assets Control ("OFAC") from the United States through the United Arab Emirates ("UAE") to Iran without the required U.S. Government

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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 between 2001 and 2003. The Regulations governing the violations at issue are found in the 2001-2003 versions of the code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 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 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 3, 2006, (71 Fed. Reg. 44551 (August 7, 2006)) has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

<sup>3</sup> 31 C.F.R. Part 560 (2001-2003)

authorization<sup>4</sup>. Pursuant to Section 746.7 of the Regulations and Section 560.204 of the ITR, the export of these items to Iran required OFAC authorization. No such authorization was obtained. In so doing, Primavera committed six violations of Section 764.2(a) of the Regulations.

**Charges 7-12 15 C.F.R. § 764.2(i): Failure to Comply with Recordkeeping Requirements**

On six occasions between on or about July 11, 2001 and on or about February 13, 2003 in connection with the transactions listed in Charges 1-6 above, Primavera failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Primavera failed to retain Shipper's Export Declarations ("SED"), which are export control documents as defined in Part 772 of the Regulations in connection with Primavera's export of computer software programs through the UAE to Iran. In so doing, Primavera committed six violations of Section 764.2(i).

\* \* \* \* \*

Accordingly, Primavera 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 \$11,000 per violation;<sup>5</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Primavera 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. (Regulations, Sections 766.6 and 766.7). If Primavera defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Primavera. 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.

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<sup>4</sup> Under the Regulations, the export of an item subject to the Regulations that will transit through a country or countries or be transshipped in a country or countries to a new country, or is intended for reexport to the new country, is deemed to be an export to the new country. 15 C.F.R. § 734.2(b)(6).

<sup>5</sup> See 15 C.F.R. § 6.4(a)(2).

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Proposed Charging Letter  
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Primavera is further notified that it is entitled to an agency hearing on the record if Primavera files a written demand for one with its answer. (Regulations, Section 766.6). Primavera is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Primavera have a proposal to settle this case, Primavera or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Primavera'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 Primavera's answer must be served on BIS at the following address:

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

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

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement

Enclosure