

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

In the Matter of:)
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Carol Wilkins)
1579 Brown Rd.)
Summerfield, NC 27358)
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)
)
)
)
Respondent)

ORDER RELATING TO CAROL WILKINS

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Carol Wilkins (“Wilkins”) of its intention to initiate an administrative proceeding against Wilkins 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 Wilkins that alleged that she committed one violation of the Regulations. Specifically, this charge is:

Charge 1 15 C.F.R. § 764.2(g) - False Statement to BIS in the Course of an Investigation

On or about July 1, 2004, Wilkins made a false or misleading statement to BIS in the course of a BIS investigation. Wilkins, an RF Micro Devices, Inc. (“RFMD”) manager whose responsibilities during at least 2002-2003 included export control compliance, stated during an

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violation alleged occurred 2004. The Regulations governing the allegation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations govern the procedural aspects of the case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, 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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

interview with a BIS special agent that she had been advised on or around May 7, 2002, by an outside export control consultant that had been hired by RFMD, that all of RFMD's products were classified as EAR99 and were not export-controlled to any region in which RFMD was marketing or selling its products. Wilkins had not been so-advised by the consultant or his consulting firm. In fact, in January 2002, the consulting firm had informed Wilkins, in a memorandum authored by the consultant and others at the firm, that there was some indication that certain RFMD products may be classified under specific Commerce Control List Export Control Classification Numbers that carried licensing requirements. The memorandum identified the RF3000 model as one such item, stating that it may require a license for export to China. In addition, subsequent to May 7, 2002, the consultant informed Wilkins on multiple occasions in 2002 and 2003, that RFMD's export control classification review was incomplete. In making this false or misleading statement to BIS in the course of an investigation, Wilkins committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Wilkins 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, Wilkins shall be assessed a civil penalty in the amount of \$15,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order. Payment shall be made in the manner specified in the attached instructions.

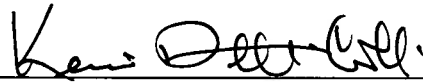
SECOND, that pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Wilkins will be assessed, in addition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

denying all of Wilkins' export privileges under the Regulations for a period of one year from the date of this Order.

FOURTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

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



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

Entered this 13th day of August, 2009.

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

In the Matter of:)
)
)
Carol Wilkins)
1579 Brown Rd.)
Summerfield, NC 27358)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Carol Wilkins (“Wilkins”) 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 (2009)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).²

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

¹ The violation alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations establish the procedures that apply to this matter.

² 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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

WHEREAS, BIS has issued a proposed charging letter to Wilkins that alleged that she committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(g) - False Statement to BIS in the Course of an Investigation

On or about July 1, 2004, Wilkins made a false or misleading statement to BIS in the course of a BIS investigation. Wilkins, an RF Micro Devices, Inc. ("RFMD") manager whose responsibilities during at least 2002-2003 included export control compliance, stated during an interview with a BIS special agent that she had been advised on or around May 7, 2002, by an outside export control consultant that had been hired by RFMD, that all of RFMD's products were classified as EAR99 and were not export-controlled to any region in which RFMD was marketing or selling its products. Wilkins had not been so-advised by the consultant or his consulting firm. In fact, in January 2002, the consulting firm had informed Wilkins, in a memorandum authored by the consultant and others at the firm, that there was some indication that certain RFMD products may be classified under specific Commerce Control List Export Control Classification Numbers that carried licensing requirements. The memorandum identified the RF3000 model as one such item, stating that it may require a license for export to China. In addition, subsequent to May 7, 2002, the consultant informed Wilkins on multiple occasions in 2002 and 2003, that RFMD's export control classification review was incomplete. In making this false or misleading statement to BIS in the course of an investigation, Wilkins committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, Wilkins has reviewed the Proposed Charging Letter and is aware of the allegations made against her and the administrative sanctions which could be imposed against her if the allegations are found to be true;

WHEREAS, Wilkins 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, Wilkins enters into this Agreement voluntarily and with full knowledge of her rights;

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

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

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

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

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

1. BIS has jurisdiction over Wilkins, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against Wilkins in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:
 - a. Wilkins shall be assessed a civil penalty in the amount of \$15,000, the payment of which shall 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 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 Wilkins. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Wilkins' 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, Wilkins 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. BIS agrees that, upon entry of the Order, it will not initiate any further administrative proceeding against Wilkins in connection with any violation of the Act or the 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 entered, available to the public.

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


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

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

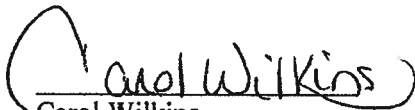
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

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


Thomas Madigan
Director
Office of Export Enforcement

Date: August 10, 2009


Carol Wilkins

Date: 8-5-, 2009

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Carol Wilkins
1579 Brown Rd.
Summerfield, NC 27358

Dear Ms. Wilkins:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Carol Wilkins (“Wilkins”), have committed one violation 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 Wilkins committed the following violation:

Charge 1 15 C.F.R. § 764.2(g) - False Statement to BIS in the Course of an Investigation

On or about July 1, 2004, Wilkins made a false or misleading statement to BIS in the course of a BIS investigation. Wilkins, an RF Micro Devices, Inc. (“RFMD”) manager whose responsibilities during at least 2002-2003 included export control compliance, stated during an interview with a BIS special agent that she had been advised on or around May 7, 2002, by an outside export control consultant that had been hired by RFMD, that all of RFMD’s products were classified as EAR99 and were not export-controlled to any region in which RFMD was marketing or selling its products. Wilkins had not been so-advised by the consultant or his consulting firm. In fact, in January 2002, the consulting firm had informed Wilkins, in a memorandum authored by the consultant and others at the firm, that there was some indication that certain RFMD products may be classified under specific Commerce Control List Export Control Classification Numbers that carried licensing requirements. The memorandum identified the RF3000 model as one such item, stating that it may require a license for export to China. In addition, subsequent to May 7, 2002, the consultant informed Wilkins on multiple occasions in 2002 and 2003, that RFMD’s export control classification review was incomplete.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violation occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 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 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

In making this false or misleading statement to BIS in the course of an investigation, Wilkins committed one violation of Section 764.2(g) of the Regulations.

* * * * *

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

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Wilkins is further notified that she is entitled to an agency hearing on the record if she files a written demand for one with her answer. *See* 15 C.F.R. § 766.6. Wilkins is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent her. *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 Wilkins have a proposal to settle this case, Wilkins or her representative should transmit it to the attorney representing BIS named below.

Wilkins is further notified that under the Small Business Regulatory Enforcement Flexibility Act, she 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 matter set forth in this letter. Accordingly, Wilkins' answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

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

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

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

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement