

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

In the Matter of)
)
LANGHAM TRANSPORT SERVICES, INC.)
)
)

Case No. 97-4B

ORDER

The Office of Antiboycott Compliance, Bureau of Export Administration, U.S. Department of Commerce ("Department"), having determined to initiate an administrative proceeding pursuant to Section 11(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the "Act"),¹ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)), against Langham Transport Services, Inc., ("Langham Transport"), a domestic concern resident in the state of Indiana, based on the allegation set forth in the Proposed Charging Letter, dated March 5, 1999 attached hereto and incorporated herein by this reference;

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

The Department and Langham Transport having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement;

IT IS THEREFORE ORDERED THAT,

FIRST, a civil penalty in the amount of \$2,000 is assessed against Langham Transport;

SECOND, Langham Transport shall pay to the Department the sum of \$2,000 within thirty (30) days of service upon it of this Order, as specified in the attached instructions.

THIRD, pursuant to the Debt Collection Act of 1982, as amended (U.S.C.A §§ 3701-3720E (1983 and Supp. 1998)), 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, Langham Transport will be assessed, in addition to interest, a penalty charge and an

administrative charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$2,000 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 Langham Transport. Accordingly, if Langham Transport should fail to pay the sum of \$2,000 in a timely manner, I will enter an Order under the authority of Section 11(d) of the Act denying all of Langham Transport's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Langham Transport.

This Order is effective immediately.


F. Amanda DeBuss
Assistant Secretary for Export Enforcement
Bureau of Export Administration

Entered this 20th day of May, 1999

Attachments

INSTRUCTIONS FOR PAYMENT OF SETTLEMENT AMOUNT

1. The check should be made payable to:

U.S. DEPARTMENT OF COMMERCE

2. The check should be mailed to:

U.S. Department of Commerce
Bureau of Export Administration
Room 6881
14th & Constitution Avenue, N.W.
Washington, D.C. 20230

Attention: Miriam Cohen

NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, that Langham Transport Services, Inc., may have to seek review, both within the U.S. Department of Commerce and the courts. It also specifies the amount owed and the date by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)) and the Federal Claims Collection Standards (4 C.F.R. Parts 101-105 (1998)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed Langham Transport Services, Inc., is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The civil monetary penalty will be delinquent if not paid by the due date specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and Langham Transport Services, Inc., will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and penalty charge of six percent per year. However, although the penalty charge will be computed from the date that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The foregoing constitutes the initial written notice and demand to Langham Transport Services, Inc., in accordance with section 102.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 102.2(b)).

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

In the Matter of)	
Langham Transport Services, Inc.)	Case No. <u>97-4B</u>
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SETTLEMENT AGREEMENT

This agreement is made by and between Langham Transport Services, Inc. ("Langham Transport"), a domestic concern resident in the State of Indiana, and the Office of Antiboycott Compliance, Bureau of Export Administration, United States Department of Commerce ("Department"), pursuant to Section 766.18 (a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the "Act").¹

WHEREAS, the Department has notified Langham Transport of its intention to initiate an administrative proceeding against Langham Transport pursuant to Section 11 (c) of the Act

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

by issuing the Proposed Charging Letter, dated March 5, 1999, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Langham Transport has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Langham Transport fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Langham Transport neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegation made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Langham Transport agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, Langham Transport and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Langham Transport with respect to the matters alleged in the Proposed Charging Letter.
2. In complete settlement of all matters set forth in the Proposed Charging Letter, Langham Transport will pay to the Department, within 30 days of service upon it of the appropriate Order, when entered, the amount of \$2,000.
3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Langham Transport. Failure to make payment of this amount, in a timely manner, shall result in the denial of all of Langham Transport's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.
4. Subject to the approval of this Settlement Agreement pursuant to paragraph 9 hereof, Langham Transport hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the

appropriate Order, when entered) including, without limitation, any right to:

- A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
 - B. Request a refund of the funds paid by Langham Transport pursuant to this Settlement Agreement and the appropriate Order, when entered; or
 - C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the appropriate Order, when entered.
5. The Department, upon entry of the appropriate Order, will not subsequently initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Langham Transport, with respect to any violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transaction set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.

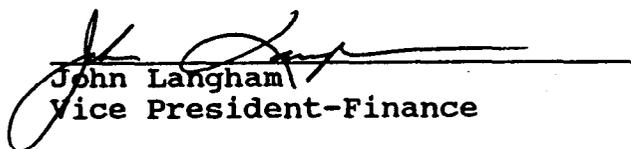
6. Langham Transport understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered.

7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Langham Transport that it has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and an appropriate Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Langham Transport in any administrative or judicial proceeding.

8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered. This Settlement Agreement shall not bind, constrain or otherwise limit any action of any other agency or department of the United States Government with respect to the facts and circumstances herein addressed.

9. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the appropriate Order.

LANGHAM TRANSPORT SERVICES, INC.


John Langham
Vice President-Finance

Date: 4/22/99

U.S. DEPARTMENT OF COMMERCE


Dexter M. Price
Director
Office of Antiboycott Compliance

Date: May 5, 1999



March 5, 1999

PROPOSED CHARGING LETTER

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Langham Transport Services, Inc.
7136 Zionsville Road
Indianapolis, IN 46268

Case No. 97-4B

Gentlemen/Ladies:

We have reason to believe and charge that you, Langham Transport Services, Inc., ("Langham Transport"), have committed one violation of the Export Administration Regulations, currently codified at 15 C.F.R. Parts 730-774 (1998), (the "Regulations")¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. §§ 2401-2420 (1991 and Supp. 1998)) (the "Act").² We charge that, with intent to comply with, further, or support an unsanctioned foreign boycott, you furnished one item of information about another person's business relationships with or in a boycotted country, in violation of Section 769.2(d) of the former Regulations.

¹/ The alleged violation occurred in 1995. The Regulations governing the violation at issue are found in the 1995 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1995)). Those Regulations define the violation that we allege occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations establish the procedures that apply to the matters set forth in this letter.

²/ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act, (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



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We allege that:

1. You, Langham Transport Services, Inc., are a domestic concern resident in the State of Indiana, and as such, are a United States person as defined in Section 760.1(b) of the Regulations.
2. During December 1995 you engaged in a transaction involving the shipment of United States origin goods to Dubai, an activity in the interstate or foreign commerce of the United States, as defined in Section 769.1(d) of the former Regulations.
3. In connection with the transaction referred to in paragraph 2 above, on or about December 27, 1995, you, on behalf of another person, furnished a certificate stating the following:

We hereby certify that the goods enumerated in this invoice are not of Israeli Origin nor do they contain Israeli materials and are not being exported from Israel.

4. By providing the information referred to in paragraph 3 above, you furnished one (1) item of information about another person's business relationships with or in a boycotted country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an Order imposing administrative sanctions.³ If you fail to answer the allegations contained in this letter within

³ Administrative sanctions may include any or all the following:

- a. Denial of export privileges (See Section 764.3(a)(2) of the Regulations);
- b. Exclusion from practice (See Section 764.3(a)(3) of the Regulations); and/or
- c. A civil penalty of \$10,000 per violation, (See Section 764.3(a)(1) of the Regulations).

thirty (30) days after service, as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and under Section 766.18 of the Regulations, to seek a settlement agreement.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between the Bureau of Export Administration and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

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

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(a) of the Regulations, a copy of your answer should also be served on the Bureau of Export Administration at:

Office of the Chief Counsel for Export Administration
U.S. Department of Commerce
Room H-3839
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230

The Office of the Chief Counsel for Export Administration can be reached by telephone at (202)-482-5311.

Sincerely,

Dexter M. Price
Director
Office of Antiboycott Compliance