
UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

BUREAU OF
INDUSTRY
AND
SECURITY

FOR IMMEDIATE RELEASE
August 6, 2002
www.bis.doc.gov

CONTACT: Scott Kamins
Eugene Cottilli
202-482-272 1

**JOHNS HOPKINS HEALTH SYSTEM CORPORATION
SETTLES ANTIBOYCOTT CASE**

Assistant Secretary of Commerce for Export Enforcement Michael J. Garcia announced today that Johns Hopkins Health System Corporation in Baltimore, Maryland has agreed to pay the maximum \$10,000 civil penalty to settle charges that it violated U.S. antiboycott laws by discriminating against an individual in support of the Arab League boycott of Israel. Johns Hopkins Health System Corporation voluntarily disclosed the incident and cooperated fully with the subsequent investigation.

“As Under Secretary of Commerce for Industry and Security Kenneth I. Juster recently made clear, the Commerce Department will vigorously enforce our antiboycott laws,” Assistant Secretary Garcia noted. “This case demonstrates that resolve.”

The Commerce Department’s Bureau of Industry and Security (BIS) had charged that in 1995, Johns Hopkins Health System Corporation discriminated against a U.S. person because she was Jewish. The person had been seeking a position in the company’s International Services Department, which markets medical services around the world, including in the Middle East. BIS believes that the discriminatory conduct was motivated by the company’s concern about having a Jewish person in that position because of the Arab League boycott of Israel.

The antiboycott provisions of the Export Administration Regulations prohibit U.S. persons from complying with certain aspects of unsanctioned foreign boycotts imposed or fostered by foreign governments, including taking discriminatory actions on the basis of religion or national origin. In addition, the antiboycott regulations require U.S. persons to report their receipt of certain boycott requests to the BIS’s Office of Antiboycott Compliance (OAC), which investigates alleged violations, provides support in administrative or criminal litigation of cases, and prepares cases for settlement.

Assistant Secretary Garcia commended Senior Compliance Officer Cathleen A. Ryan who conducted the investigation of this case for OAC.

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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In the Matter of)
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) Case No. 97-20
Johns Hopkins Health System Corporation)
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ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security,¹ 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 (the “Act”)² and the Export Administration Regulations (currently codified at 15 C.F.R Parts 730-774 (2002)) (the “Regulations”), against Johns Hopkins Health System Corporation (“Health System”), a domestic concern incorporated under the laws of the State of Maryland, based on allegations set forth in the Proposed Charging Letter, dated February 8, 2002, a copy of which is attached hereto and incorporated herein by this reference;

¹ On April 18, 2002, the Department of Commerce announced that the name of the Bureau of Export Administration (“BXA”) had been changed to the Bureau of Industry and Security (“BIS”) and made conforming changes in the Export Administration Regulations. *Fed. Reg.* 20630-32 (April 26, 2002). This change does not affect the substantive activities or responsibilities of BIS. All actions taken before or after April 18 under the name of BXA will be deemed to have been taken under the name BIS and all references to BXA are deemed to be to BIS.

² The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1994 & Supp. 1999)) (“IEEPA”).

The Department and the Health System 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 ORDERED THAT,

FIRST, a civil penalty of \$ 10,000 is assessed against the Health System;

SECOND, the Health System shall pay to the Department the sum of \$ 10,000 within thirty days of the date of this Order, as specified in the attached instructions;

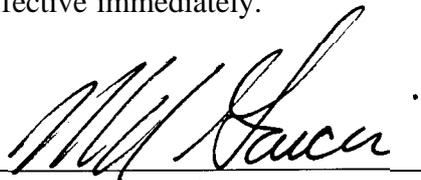
THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2001)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, the Health System may 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 1(d) of the Act, the timely payment of the sum of \$ 10,000 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 the Health System.

Accordingly, if the Health System should fail to pay the sum of \$ 10,000 in the manner prescribed by this Order, I will enter an Order under the authority of Section 1 l(d) of the Act denying all of the Health System'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 the Health System.

This Order is effective immediately.



Michael J. Garcia
Assistant Secretary for Export Enforcement

Entered this ¹⁴2002 day of August

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 Industry and Security
Room 6881
14th & Constitution Avenue, N. W.
Washington, D.C. 20230

Attention: Sharon Gardner

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 respondent 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. 2001)) and the Federal Claims Collection Standards (65 *Fed. Reg.* 70390-70406, November 22, 2000 to be codified at 31 C.F.R. Parts 900-904), 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 respondent 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 31 C.F.R. § 901.9.

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 respondent will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a 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 31 C.F.R. § 901.9.

The foregoing constitutes the initial written notice and demand to respondent in accordance with Section 901.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 901.2(b)).

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

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In the Matter of)
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Johns Hopkins Health System Corporation) Case No. 97-20
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SETTLEMENT AGREEMENT

This agreement is made by and between Johns Hopkins Health System Corporation (“Health System”), a domestic concern incorporated under the laws of the State of Maryland, and the Office of Antiboycott Compliance, Bureau of Industry and Security, 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 (2002)) (the “Regulations”), issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

¹ On April 18, 2002, the Department of Commerce announced that the name of the Bureau of Export Administration (“BXA”) had been changed to the Bureau of Industry and Security (“BIS”) and made conforming changes in the Export Administration Regulations. *Fed. Reg.* 20630-32 (April 26, 2002). This change does not affect the substantive activities or responsibilities of BIS. All actions taken before or after April 18 under the name of BXA will be deemed to have been taken under the name BIS and all references to BXA are deemed to be to BIS.

² The Act expired on August 20, 2001. Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1994 & Supp. 1999)) (“IEEPA”).

WHEREAS, the Department has notified the Health System of its intention to initiate an administrative proceeding against the Health System pursuant to Section 11 (c) of the Act by issuing the Proposed Charging Letter dated February 8, 2002, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, the Health System 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; the Health System fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and the Health System states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

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

WHEREAS, the Health System voluntarily disclosed to the Department the activities which are the subject of this Settlement Agreement, and has cooperated with the Department in the investigation of this matter; and

WHEREAS, the Health System agrees to be bound by the appropriate Order (“Order”) when entered;

NOW. THEREFORE, the Health System and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over the Health System 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, the Health System will pay to the Department the amount of \$10,000 within 30 days of the date of the Order, when entered.
3. As authorized by Section 1 l(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 the Health System. Failure to make payment of this amount shall result in the denial of all of the Health System's export privileges for a period of one year from the date of entry of the Order.
4. Subject to the approval of this Settlement Agreement pursuant to paragraph 9 hereof, the Health System hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the 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 the Health System pursuant to this Settlement Agreement and the Order, when entered; or

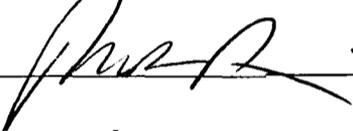
C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

5. The Department, upon entry of the Order, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice or to any other agency of the United States Government for possible enforcement action, against the Health System or any of its officers, directors or employees, or its subsidiaries, with respect to any violation of Section 8 of the Act or Part 760 of the Regulations arising out of the transactions 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. The Health System understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
7. This Settlement Agreement is for settlement purposes only, and does not constitute a finding or determination by the Department or an admission by the Health System 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 the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against the Health System 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 Order, when entered, nor shall this Settlement Agreement bind, constrain or otherwise limit any action by 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 Order.

HOPKINS HEALTH SYSTEM CORPORATION



Ronald R. Peterson
President

U.S. DEPARTMENT OF COMMERCE



Dexter M. Price
Director
Office of Antiboycott Compliance

DATE: 7/12/02

DATE: July 25, 2002



PROPOSED CHARGING LETTER

February 8, 2002

Johns Hopkins Health System Corporation
600 North Wolfe Street
Baltimore, MD 21287

Case No. 97-20

Gentlemen/Ladies:

We have reason to believe and charge that you, Johns Hopkins Health System Corporation ("Health System"), have committed one violation of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

We charge that, with intent to comply with, further or support an unsanctioned foreign boycott, you committed one violation of Section 769.2(b) of the former Regulations, in that, you refused to employ or otherwise discriminated against an individual who is a United States person on the basis of that person's religion or national origin.

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 established the procedures that apply to the matter in this letter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the most recent of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1994 & Supp. 1999)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.



We allege that:

1. You are, and at all times relevant were, a domestic concern incorporated under the laws of the State of Maryland. As such, you are a United States person as defined in Section 760.1 (b) of the Regulations.

2. The individual against whom you took the discriminatory action is a national of the United States, resident in Washington, D.C. As such, the individual is a United States person as defined in Section 760.1 (b) of the Regulations.

3. Beginning in 1994 and throughout 1995, you engaged in activities involving the sale, purchase or transfer of goods or services between two or more of the several United States and between a State and foreign countries, to wit, you engaged in activities to recruit, select and employ individuals to fill positions necessary to expand your revenue-producing business from international sources, activities in the interstate or foreign commerce of the United States as defined in Section 769.1 (d) of the former Regulations.

4. In connection with the activities described in paragraph 3 above, you recruited a new Director of International Services (the "Director") to market medical services aggressively to Arab and other countries around the world.

5. In or about early 1995, the Director created the position of Foreign Embassy Liaison to market the Health System's services at embassies and diplomatic missions in the United States. In order to recruit applicants, the Health System advertised the position. Five candidates were selected from approximately 120 respondents to the advertisement. One of those five candidates ("Candidate A") was interviewed, on or about 11 April 1995, by your Senior Career Specialist in the Office of Career Services and, subsequently, invited to return for an interview with the Director.

6. In the course of this interview with the Director on or about 26 April 1995, the Director asked Candidate A the origin of her family name. Subsequently, the Director asked Candidate A, "Are you Jewish?" Candidate A responded affirmatively. The Director explained that the Health System already had a Jewish person working on the Jewish population. You did not select Candidate A for the position.

7. By refusing to employ Candidate A because she was Jewish, you, the Health System, discriminated against a United States person on the basis of religion or national origin, an activity prohibited by Section 769.2(b) of the former Regulations and not excepted. By so doing, you violated Section 769.2(b) of the former Regulations. We, therefore, charge you with one violation of Section 769.2(b) of the former Regulations.

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

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.

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

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 Industry and Security (“BIS”) 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 2 1202-4022

Attention: Administrative Law Judge

³ Administrative sanctions may include any or all the following:

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

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

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

Sincerely,

Dexter M. Price
Director
Office of Antiboycott Compliance