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

In the Matter of:	)	
	)	
Rufina Sanchez Lopez, Principal	)	
Winter Aircraft Products SA	)	
a/k/a Ruf S. Lopez SA	)	Docket No. 05-BIS-16
C/Ferrocarril 41	)	
1 DCHA	)	
28045 Madrid, Spain	)	
	)	
Respondent.	)	

FINAL DECISION AND ORDER

This matter is before me upon a Recommended Decision and Order of the Administrative Law Judge ("ALJ").

In a charging letter filed on September 12, 2005, the Bureau of Industry and Security ("BIS") alleged that Respondent, Rufina Sanchez Lopez, ("Sanchez Lopez"), in her capacity as Principal of Winter Aircraft Products SA ("Winter Aircraft"), committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774) (2007)) ("Regulations")[1], issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act").[2] Specifically, the charging letter alleged that between on

[1] The violations charged occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R Parts 730-774 (2000)). The 2007 Regulations establish the procedures that apply to this matter.

[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 last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it 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 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 FR 44,551 (August 7, 2006)), has continued the Regulations in effect under IEEPA.

or about November 1, 2000, and on or about November 17, 2000, Sanchez Lopez took actions with intent to evade the Regulations. Specifically, on or about November 1, 2000, Sanchez Lopez, acting through her company Winter Aircraft, acquired aircraft parts, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 9A991, from U.S. suppliers with intent to transship such items to Iran. Winter Aircraft failed to inform the U.S. suppliers of the ultimate destination of the items and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. On or about November 17, 2000, Winter Aircraft transshipped the aircraft parts to Iran. In taking these actions, Sanchez Lopez committed one violation of Section 764.2(h) of the Regulations.

The charging letter further alleged that between on or about October 19, 2000, and on or about November 22, 2000, Sanchez Lopez took actions with intent to evade the Regulations. Specifically, on or about October 19, 2000, Sanchez Lopez, acting through her company Winter Aircraft, acquired aircraft parts, items subject to the Regulations and classified under ECCN 9A991, from U.S. suppliers with intent to transship such items to Iran. Winter Aircraft failed to inform the U.S. suppliers of the ultimate destination of the items and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. On or about November 22, 2000, Winter Aircraft transshipped the aircraft parts subject to the Regulations to Iran. In taking these actions, Sanchez Lopez committed one violation of Section 764.2(h) of the Regulations.

On September 12, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to Sanchez Lopez at her last known address, in accordance with Section 766.3(b)(1) of the Regulations. The notice of issuance of a charging letter was received

by Sanchez Lopez on or about September 21, 2005. To date, Sanchez Lopez has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with Section 766.7 of the Regulations, BIS filed a Motion for Default Order on March 20, 2007. This Motion for Default Order recommended that Sanchez Lopez be denied export privileges under the Regulations for a period of ten years. Under Section 766.7(a) of the Regulations, "[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear," and "on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter." Based upon the record before him, the ALJ found Sanchez Lopez in default.

On May 1, 2007, the ALJ issued a Recommended Decision and Order in which he found that Sanchez Lopez committed two violations of Section 764.2(h). The ALJ recommended the penalty of denial of export privileges for ten years.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations and the facts of this case, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

ACCORDINGLY, IT IS THEREFORE ORDERED,

FIRST, that for a period of ten years from the date of this Order, Rufina Sanchez Lopez, Principal, Winter Aircraft Products SA, a/k/a Ruf S. Lopez SA, C/Ferrocarril 41, 28045 Madrid,

Spain, and when acting for or on behalf of Sanchez Lopez, her representatives, agents and employees (hereinafter collectively referred to as the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including

financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the *Federal Register*.

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

Dated: 5-24-07

Mark Foulon
Acting Under Secretary of Commerce
for Industry and Security

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

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a/k/a Ruf S. Lopez SA	)	Docket No. 05-BIS-16
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1 DCHA	)	
28045 Madrid, Spain	)	
	)	
Respondent.	)	

RECOMMENDED DECISION AND ORDER

On September 12, 2005, the Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), issued a charging letter initiating this administrative enforcement proceeding against Rufina Sanchez Lopez, ("Sanchez Lopez"), in her capacity as Principal of Winter Aircraft Products SA ("Winter Aircraft"). The charging letter alleged that Sanchez Lopez committed two violations of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2006)) (the "Regulations"),[1] issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act").[2] In accordance with § 766.7 of the Regulations, BIS has moved for the issuance of an Order of Default against Sanchez Lopez as Sanchez Lopez

[1] The violations charged occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2006 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12,924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000, 3 CFR, 2000 Comp. 397 (2001), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701 - 1706 (2000) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001, 3 CFR, 2001 Comp. 783 (2002), as extended by the Notice of August 3, 2006, 71 FR 44551 (Aug. 7, 2006), has continued the Regulations in effect under the IEEPA.

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has failed to file an answer to the allegations in the charging letter issued by BIS within the time period required by law.

A. Legal Authority for Issuing an Order of Default

Section 766.7 of the Regulations states that BIS may file a motion for an order of default if a respondent fails to file a timely answer to a charging letter. That section, entitled Default, provides in pertinent part:

> Failure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing appropriate sanctions.

15 CFR 766.7 (2006).

Pursuant to § 766.6 of the Regulations, a respondent must file an answer to the charging letter "within 30 days after being served with notice of the issuance of the charging letter" initiating the proceeding.

B. Service of the Notice of Issuance of Charging Letter

In this case, BIS served notice of issuance of the charging letter in accordance with § 766.3(b)(1) of the Regulations when it sent a copy of the charging letter by registered mail to Sanchez Lopez at her last known address on September 12, 2005. Although, BIS did not receive the signed registered mail receipt, BIS did receive a letter from Winter Aircraft, the company in

which Sanchez Lopez is Principal, acknowledging receipt of the charging letter on September 21, 2005. Further, BIS and Winter Aircraft have engaged in several months of correspondence regarding the matter. BIS counsel has advised Sanchez Lopez, through her company Winter Aircraft, repeatedly to file an answer to the charging letter with the Administrative Law Judge ("ALJ"). Sanchez Lopez has failed to file an answer to the charging letter as required by section 766.6 of the Regulations. Accordingly, Sanchez Lopez is in default.

C. Summary of Violations Charged

The charging letter filed by BIS included a total of two charges. Specifically, the charging letter alleged the following:

Charge 1 (15 C.F.R. §764.2(h) - Engaging in a Transaction with Intent to Evade the Regulations)

Between on or about November 1, 2000, and on or about November 17, 2000, Sanchez Lopez took actions with intent to evade the Regulations. Specifically, on or about November 1, 2000, Sanchez Lopez, acting through her company Winter Aircraft, acquired aircraft parts, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 9A991, from U.S. suppliers with intent to transship such items to Iran. Winter Aircraft failed to inform the U.S. suppliers of the ultimate destination of the items and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. On or about November 17, 2000, Winter Aircraft transshipped the aircraft parts subject to the EAR to Iran with a substantial markup in price. In taking these actions, Sanchez Lopez committed one violation of Section 764.2(h) of the Regulations.

Charge 2 (15 C.F.R. §764.2(h) - Engaging in a Transaction with Intent to Evade the Regulations)

Between on or about October 19, 2000, and on or about November 22, 2000, Sanchez Lopez took actions with intent to evade the Regulations. Specifically, on or about October 19, 2000, Sanchez Lopez, acting through her company Winter Aircraft, acquired aircraft parts, items subject to the Regulations and classified under ECCN 9A991, from U.S. suppliers with intent to transship such items to Iran. Winter Aircraft failed to inform the U.S. suppliers of the ultimate

destination of the items and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. On or about November 22, 2000, Winter Aircraft transshipped the aircraft parts subject to the EAR to Iran with a substantial markup in price. In taking these actions, Sanchez Lopez committed one violation of Section 764.2(h) of the Regulations.

D. Penalty Recommendation

[REDACTED SECTION]

[REDACTED SECTION]

E. Conclusion

Accordingly, the undersigned refers this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in § 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 CFR 766.22(c).

Dated: 05/01/07

The Honorable Joseph N. Ingolia
Chief Administrative Law Judge

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Rufina Sanchez Lopez, Principal
Winter Aircraft Products SA
a/k/a Ruf S. Lopez SA
C/Ferrocarril 41
1 DCHA
28045 Madrid, Spain

COPY
RECEIVED
FRONT DESK
2005 SEP 14 P 2: 24
ALJ BALTIMORE, MD

Dear Ms. Sanchez Lopez:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Ms. Rufina Sanchez Lopez ("Sanchez Lopez"), in her capacity as Principal of Winter Aircraft Products SA of Madrid, Spain ("Winter Aircraft"), also known as Ruf S. Lopez SA, committed 2 violations of the Export Administration Regulations (the "Regulations"),[1] which are issued under the authority of the Export Administration Act of 1979 (the "Act").[2] Specifically, BIS charges that Sanchez Lopez committed the following violations:

Charge 1 (15 C.F.R. §764.2(h) - Engaging in a Transaction with Intent to Evade the Regulations)

Between on or about November 1, 2000, and on or about November 17, 2000, Sanchez Lopez took actions with intent to evade the Regulations. Specifically, on or about November 1, 2000, Sanchez Lopez, acting through her company Winter Aircraft, acquired aircraft parts, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 9A991, from U.S. suppliers with intent to transship such items to Iran. Winter Aircraft failed to

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[1] The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations govern the procedural aspects of this case.

[2] 50 U.S.C. app. §§ 2401- 2420 (2000). 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 last 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. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), continues the Regulations in effect under IEEPA.

inform the U.S. suppliers of the ultimate destination of the items and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. On or about November 17, 2000, Winter Aircraft transshipped the aircraft parts subject to the EAR to Iran with a substantial markup in price. In taking these actions, Sanchez Lopez committed one violation of Section 764.2(h) of the Regulations.

Charge 2 (15 C.F.R. §764.2(h) - Engaging in a Transaction with Intent to Evade the Regulations)

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Accordingly, Sanchez Lopez 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 $11,000 per violation;[3]

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

[3] *See* 15 C.F.R. §6.4(a)(2).

penalty on each of the charges in this letter.

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

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Sanchez Lopez have a proposal to settle this case, she or her representative should transmit it to me through 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, Sanchez Lopez'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 Sanchez Lopez's answer must be served on BIS at the following address:

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

Melissa Mannino is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301 or by facsimile at (202) 482-0085.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement