

UNITED STATES DEPARTMENT OF COMMERCE
 BUREAU OF EXPORT ADMINISTRATION
 WASHINGTON, D.C. 20230

In the Matter of:)	
)	Docket No.
PAUL DUFAULT)	97-BXA-17
88 Shagbark Way)	
Fairport, New York 14450,)	
)	
Respondent)	

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having initiated an administrative proceeding against Paul Dufault (Dufault) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act), and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations), based on allegations that Dufault violated the provisions of Sections 787.3(b), 787.4(a), 787.4(b) and 787.5(a) of the former Regulations, as follows:

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)).

² The alleged violations occurred in 1992. The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the violations that BXA alleges 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 this matter.

1. beginning on or about November 11, 1992 and continuing through on or about December 8, 1992, Dufault conspired with Ed Jentz, Robert Gaudu, General Parts International, Inc. and others to evade U.S. export control laws that restricted exports to Libya by acquiring U.S.-origin computer systems, representing that the equipment was for use in Iran, but intending to export it to Libya without the export authorization that the conspirators knew or had reason to know was required by Section 772.1(b) of the former Regulations, in violation of Section 787.3(b) of the former Regulations;
2. in furtherance of the conspiracy described above, Dufault and his fellow conspirators, while in possession of U.S.-origin computer equipment, were specifically told by other parties to the intended transaction that the equipment would be exported to Libya and not to Iran, but nevertheless planned to proceed with the export transaction without obtaining the authorization they knew was required, in violation of Sections 787.4(a) and 787.4(b) of the former Regulations; and
3. in furtherance of the conspiracy described above, Dufault, on or about December 8, 1992, made false or misleading representations directly or indirectly to BXA and U.S. Customs Service officials in the course of

an investigation instituted under the authority of the Act, in violation of Section 787.5(a) of the former Regulations; and

BXA and Dufault having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$25,000 is assessed against Dufault, which shall be paid 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.A. §§ 3701-3720E (1983 & 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, Dufault will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, for a period of three years from the date of entry of this Order, Dufault shall be denied all privileges of participating, directly or indirectly, 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. Benefiting 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.

FOURTH, 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 which 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.

FIFTH, 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 subject to the provisions of this Order.

SIXTH, 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.

SEVENTH, that as authorized by Section 766.18(c) of the Regulations, this denial of export privileges shall be suspended for a period of three years from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Dufault has committed no violation of the Act, or any regulation, order, or license issued thereunder.

EIGHTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, notifying that office that the case is withdrawn from adjudication, as provided by Section 766.18(b) of the Regulations.

NINTH, that the 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.



F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 30th day of September, 1998.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

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PAUL DUFAULT)	97-BXA-17
88 Shagbark Way)	
Fairport, New York 14450,)	
)	
Respondent)	

SETTLEMENT AGREEMENT

This Agreement is made by and between Paul Dufault (Dufault) and the Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.18(b) of the Export Administration Regulations (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. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).²

Whereas, on December 8, 1997, BXA initiated an administrative proceeding against Dufault pursuant to the Act and

¹ The alleged violations occurred in 1992. The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the violations that BXA alleges 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 this matter.

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 (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

the Regulations by issuing a Charging Letter alleging that Dufault violated the provisions of Sections 787.3(b), 787.4(a), 787.4(b) and 787.5(a) of the former Regulations as follows:

1. beginning on or about November 11, 1992 and continuing through on or about December 8, 1992, Dufault conspired with Ed Jentz, Robert Gaudu, General Parts International, Inc. and others to evade U.S. export control laws that restricted exports to Libya by acquiring U.S.-origin computer systems, representing that the equipment was for use in Iran, but intending to export it to Libya without the export authorization that the conspirators knew or had reason to know was required by Section 772.1(b) of the former Regulations, in violation of Section 787.3(b) of the former Regulations;

2. in furtherance of the conspiracy described above, Dufault and his fellow conspirators, while in possession of U.S.-origin computer equipment, were specifically told by other parties to the intended transaction that the equipment would be exported to Libya and not to Iran, but nevertheless planned to proceed with the export transaction without obtaining the authorization they knew was required, in violation of Sections 787.4(a) and 787.4(b) of the former Regulations; and

3. in furtherance of the conspiracy described above, Dufault, on or about December 8, 1992, made false or misleading representations directly or indirectly to BXA and U.S. Customs Service officials in the course of an investigation instituted

under the authority of the Act, in violation of Section 787.5(a) of the former Regulations;

Whereas, Dufault received notice of issuance of the Charging Letter pursuant to Section 766.3(b) of the Regulations;

Whereas, Dufault has reviewed the Charging Letter and is aware of the allegations made against him and the administrative sanctions that could be imposed against him if the allegations are found to be true; he fully understands the terms of this Settlement Agreement and the proposed Order; he enters into this Settlement Agreement voluntarily and with full knowledge of his rights, and he states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

Whereas, Dufault neither admits nor denies the allegations contained in the Charging Letter;

Whereas, Dufault wishes to settle and dispose of all matters alleged in the Charging Letter by entering into this Settlement Agreement; and

Whereas, Dufault agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

Now Therefore, Dufault and BXA agree as follows:

1. BXA has jurisdiction over Dufault, under the Act and the Regulations, in connection with the matters alleged in the Charging Letter.

2. BXA and Dufault agree that the following sanctions shall be imposed against Dufault in complete settlement of the alleged violations of the Act and the former Regulations set forth in the Charging Letter:

a. Dufault shall be assessed a civil penalty in the amount of \$25,000, which shall be paid within 30 days from the date of entry of the appropriate Order.

b. Dufault may not, for a period of three years from the date of entry of an appropriate Order, 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:

- i. applying for, obtaining, or using any license, License Exception, or export control document;
- ii. 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

iii. benefiting 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.

c. As authorized by Section 766.18(c) of the Regulations, this denial of export privileges shall be suspended for three years from the date of entry of the appropriate Order, and shall thereafter be waived, provided that, during the period of suspension, Dufault has committed no violation of the Act or any regulation, order, or license issued thereunder.

3. Dufault agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, he hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right (a) to an administrative hearing regarding the allegations in the Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered.

4. BXA agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against Dufault in connection with any violation of the Act or the Regulations



E603-14

UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

DEC - 8 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Paul Dufault
88 Shagbark Way
Fairport, New York 14450

Dear Mr. Dufault:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described below, you have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1997)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1997)) (the Act).²

Facts constituting violations:

Charge 1

Beginning on or about November 11, 1992 and continuing through on or about December 8, 1992, Paul Dufault conspired with Robert Gaudu, Ed Jentz, General Parts International, Inc. (General Parts), and others to bring about acts that constituted violations of the former Regulations. The purpose of the conspiracy was for Dufault, Gaudu, Jentz, General Parts and others to evade U.S. export control laws that restricted exports to Libya. To accomplish their purpose, the conspirators acquired

¹The alleged violations occurred in 1992. The Regulations governing the violations at issue are found in the 1992 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1992)). Those Regulations define the violations that BXA alleges occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured; the restructured Regulations, codified at 15 C.F.R. Parts 730-774 (1997), establish the procedures that apply to the matters set forth in this charging letter.

²The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices on August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 Fed. Reg. 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1997)).



proceeding is instituted against you 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 \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If you fail to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

You are further notified that you are entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with your answer. You are also entitled to be represented by counsel, and to seek a settlement of the charges.

Pursuant to an Interagency Agreement between BXA 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. Accordingly, your answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of your answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Lorie B. Whitaker, Esq." below the address. Ms. Whitaker may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee
Acting Director
Office of Export Enforcement

Enclosures

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

EG03-16
BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE
September 30, 1998
www.bxa.doc.gov

CONTACTS: Susan Hofer
Eugene Cottilli
(202) 482-2721

NEW YORK EXPORTERS SETTLE CIVIL CONSPIRACY CHARGES

WASHINGTON -- The Commerce Department today imposed civil penalties and denied the export privileges of Paul Dufault of Fairport, NY and Ed Jentz of Oyster Bay, NY, to settle charges that they conspired to evade U.S. export control laws restricting exports to Libya, Commerce Assistant Secretary for Export Enforcement, F. Amanda DeBusk announced.

Dufault and Jentz each will pay a \$25,000 civil penalty, and each is denied export privileges for three years. Both denial periods are suspended and will be waived as long as Dufault and Jentz do not violate the Export Administration Regulations during their three-year probation period. Earlier this month, the Commerce Department imposed the same sanctions on a third co-conspirator, Robert J. Gaudu, of Victor, NY.

The Commerce Department alleged that in late 1992 Dufault and Jentz were part of a conspiracy to ship U.S.-origin computer systems to Libya and that they made false and misleading representations about the computers' destination to both Commerce Department and Customs Service officials. Special agents from Commerce's Office of Export Enforcement New York Field Office and the U.S. Customs Service seized the computers before they could be exported.

The U.S. government maintains a comprehensive economic sanctions program against the government of Libya and prohibits virtually all commercial transactions involving U.S.-origin goods or U.S. persons, or both, with the government of Libya.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the Regulations.