



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kidde-Fenwal, Inc.  
400 Main Street  
Ashland, Massachusetts 01721

**DRAFT**

Attention: Evelyn LaBrie  
Export Manager

Dear Ms. LaBrie:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Kidde-Fenwal, Inc. (Kidde-Fenwal) has violated the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

Facts constituting the violation:

On or about December 18, 1995, Kidde-Fenwal attempted to export fire alarm equipment to Iran through Dubai, United Arab Emirates (UAE). In connection with that attempted export, Kidde-Fenwal identified the UAE as the country of ultimate destination on the Shipper's Export Declaration, an export control document as defined in Section 770.2 of the former Regulations, when, in fact, the intended ultimate destination was Iran. BXA alleges that, by making a false or misleading statement of material fact directly or indirectly to a U.S. Government agency in

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<sup>1</sup> 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 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 the matters set forth in this Charging Letter.

<sup>2</sup> 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)), and 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. app. §§ 1701-1706 (1991 & Supp. 1998)).



connection with the preparation, submission or use of an export control document, Kidde-Fenwal violated Section 787.5(a) of the former Regulations.

Accordingly, Kidde-Fenwal is hereby notified that an administrative proceeding is instituted against it 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 Kidde-Fenwal fails 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.

Kidde-Fenwal is further notified that it is 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 its answer, to be represented by counsel, and to seek a settlement.

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, Kidde-Fenwal's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Kidde-Fenwal's answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: C. Randall Pratt, Esq." below the address. Ms. Pratt may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

Enclosures

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

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In the Matter of: )  
 )  
KIDDE-FENWAL, INC. )  
400 Main Street )  
Ashland, Massachusetts 01721, )  
 )  
Respondent )  
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SETTLEMENT AGREEMENT

This Agreement is made by and between Kidde-Fenwal, Inc. (Kidde-Fenwal) and the Bureau of Export Administration, United States Department of Commerce (BXA), pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act).<sup>2</sup>

<sup>1</sup>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 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.

<sup>2</sup>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)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified Kidde-Fenwal of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that, on or about December 18, 1995, Kidde-Fenwal identified the United Arab Emirates as the country of ultimate destination on a Shipper's Export Declaration in connection with its attempted export of fire alarm equipment, when, in fact, the intended ultimate destination was Iran, thereby making a false or misleading statement of material fact directly or indirectly to a U.S. Government agency in connection with the preparation, submission or use of an export control document, in violation of Section 787.5(a) of the former Regulations;

WHEREAS, Kidde-Fenwal has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true, it fully understands the terms of this Settlement Agreement and the proposed Order, it 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;

WHEREAS, Kidde-Fenwal neither admits nor denies the allegations contained in the proposed Charging Letter;

WHEREAS, Kidde-Fenwal wishes to settle and dispose of all matters set forth in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Kidde-Fenwal agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, Kidde-Fenwal and BXA agree as follows:

1. BXA has jurisdiction over Kidde-Fenwal, under the Act and the Regulations, in connection with the matters set forth in the proposed Charging Letter.

2. BXA and Kidde-Fenwal agree that the following sanction shall be imposed against Kidde-Fenwal in complete settlement of the alleged violation of the Act and former Regulations set forth in the proposed Charging Letter:

- a. Kidde-Fenwal shall be assessed a civil penalty in the amount of \$10,000, \$7,500 of which shall be paid to BXA within 30 days from the date of entry of the appropriate Order. Payment of the remaining \$2,500 shall be suspended for a period of one year from the date of entry of the appropriate Order and shall thereafter be waived, provided that, during the period of suspension, Kidde-Fenwal has committed no violation of the Act, or any regulation, order, or license issued thereunder.
- b. As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. 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 Kidde-Fenwal. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Kidde-Fenwal's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. Kidde-Fenwal agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it 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 proposed 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 Kidde-Fenwal in connection with any violation of the Act or the Regulations based on the facts alleged in the proposed Charging Letter.

5. Kidde-Fenwal understands that BXA will make the proposed Charging Letter, the Settlement Agreement, and the appropriate Order, when entered, available to the public.

6. BXA and Kidde-Fenwal agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and Kidde-Fenwal agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

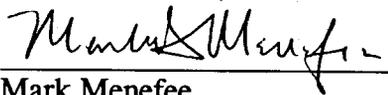
7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve

to 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 addressed herein.

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

BUREAU OF EXPORT ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE

KIDDE-FENWAL, INC.



Mark Menefee  
Director  
Office of Export Enforcement



Richard H. DeMarle  
President

Date:

5/19/99

Date:

5.4.99

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

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In the Matter of: )  
)  
KIDDE-FENWAL, INC. )  
400 Main Street )  
Ashland, Massachusetts 01721, )  
)  
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Respondent )

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Kidde-Fenwal, Inc. (Kidde-Fenwal) of its intention to initiate an administrative proceeding against it 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),<sup>1</sup> and the Export Administration Regulations (15 C.F.R. Parts 730-774 (1998)) (the Regulations),<sup>2</sup> based on allegations that, on or about December 18, 1995, Kidde-Fenwal identified the United Arab Emirates as the country of ultimate destination on a

<sup>1</sup>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)).

<sup>2</sup>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 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.

Shipper's Export Declaration in connection with its attempted export of fire alarm equipment, when, in fact, the intended ultimate destination was Iran, thereby making a false or misleading statement of material fact directly or indirectly to a U.S. Government agency in connection with the preparation, submission or use of an export control document, in violation of Section 787.5(a) of the former Regulations; and

BXA and Kidde-Fenwal having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they have 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 \$10,000 is assessed against Kidde-Fenwal, \$7,500 of 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. Payment of the remaining \$2,500 shall be suspended for a period of one year from the date of entry of this Order and shall thereafter be waived, provided that, during the period of suspension, Kidde-Fenwal has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 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, Kidde-Fenwal will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, 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, permission, or privilege granted, or to be granted, to Kidde-Fenwal. Accordingly, if Kidde-Fenwal should fail to pay in a timely manner the civil penalty set forth above, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of Kidde-Fenwal's export privileges for a period of one year from the date of entry 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.

  
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F. Amanda DeBusk  
Assistant Secretary  
for Export Enforcement

Entered this 2nd day of June, 1999.

E623-11

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UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

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WASHINGTON, D.C. 20230

BUREAU OF  
EXPORT  
ADMINISTRATION

FOR IMMEDIATE RELEASE  
June 2, 1999  
www.bxa.doc.gov

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

## MASSACHUSETTS FIRM PENALIZED FOR ATTEMPTED EXPORT TO IRAN

Washington -- The Commerce Department today imposed a \$10,000 civil penalty on Kidde-Fenwal, Inc. of Ashland, Mass., for allegedly attempting to export fire alarm control equipment to Iran through the United Arab Emirates, Commerce Assistant Secretary for Export Enforcement F. Amanda DeBusk announced.

The Department alleged that in 1995 Kidde-Fenwal falsely represented in shipping documents the ultimate destination of the equipment as its own affiliate in the United Arab Emirates when it knew the goods were ultimately headed to Iran. The U.S. government maintains a comprehensive economic sanctions program against the government of Iran and prohibits virtually all commercial transactions involving U.S.-origin goods or U.S. persons, or both, with the government of Iran.

Kidde-Fenwal agreed to pay the penalty to settle the charges. The Department suspended ~~\$2,500 of the civil penalty~~ for one year. It will then be waived as long as Kidde-Fenwal does not violate the Export Administration Regulations during the probation period.

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.