

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

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In the Matter of: )  
 )  
Federal Express Corporation )  
d/b/a FedEx Express )  
3610 Hacks Cross Road )  
Memphis, Tennessee 38125 )  
 )  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO FEDERAL EXPRESS CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified the Federal Express Corporation, d/b/a FedEx Express (“FedEx”), of its intention to initiate an administrative proceeding against it pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> by issuing a proposed charging letter to FedEx that alleged that it committed five violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The charged violations occurred in 2001 and 2004. The Regulations governing the violations at issue are found in the 2001 and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 and 2004)). The 2005 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 issued on 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 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 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

1. *One Violation of 15 C.F.R. §764.2(k) - Exporting on Behalf of a Denied Party:*  
On or about September 19, 2001, FedEx, in connection with the shipment described in International Air Waybill 8265 6000 1979, took action prohibited by a denial order by exporting one package of used clothes, items subject to the Regulations, on behalf of the Tetrabal Corp., 316 Candlewood Pl., Richardson, TX 75081. The Tetrabal Corp. was at the time of export subject to a temporary denial of its export privileges. *See 66 Fed. Reg. 47630 (Sept. 13, 2001).* The temporary denial order prohibited any person from exporting or reexporting “to or on behalf of anyone subject to this order any item subject to the [Regulations].”
2. *One Violation of 15 C.F.R. § 764.2(k) - Exporting on Behalf of a Denied Party:*  
On or about July 30, 2001, FedEx, in connection with the shipment described in International Air Waybill 8288 4813 5535, took action prohibited by a denial order by exporting one package of a used amusement ride computer, an item subject to the Regulations, on behalf of Yuri Montgomery, M&M Avionics, Inc., 518 Howard Ave NE, Olympia, WA 98506. Yuri Montgomery was at the time of export subject to an order denying his export privileges. *See 65 Fed. Reg. 57313 (Sept. 22, 2000).* The denial order prohibited any person from exporting or reexporting “to or on behalf of anyone subject to this order any item subject to the Regulations.”
3. *One Violation of 15 C.F.R. § 764.2(e) - Transporting with Knowledge of a Violation of the Regulations:* With respect to the July 30, 2001 export on behalf of Yuri Montgomery described above, FedEx transported a used amusement ride computer, an item subject to the Regulations, on behalf of Yuri Montgomery with knowledge that doing so was a violation of the order denying Yuri Montgomery’s

export privileges. At all times relevant hereto, FedEx knew or had reason to know that Yuri Montgomery had been denied his export privileges and that Yuri Montgomery had not sought the approval of the Department of Commerce, as set forth in Section 764.3(a)(2) of the Regulations, for the export.

4. *One Violation of 15 C.F.R. § 764.2(b) - Aiding and Abetting an Export to Syria Without the Required License:* On or about January 19, 2004, FedEx, in connection with the shipment described in International Air Waybill 8394 5692 2255, aided and abetted the export of a computer, an item classified under Export Control Classification Number 4A994, to Syria without the Department of Commerce license required by section 742.9 of the Regulations. FedEx aided and abetted the unlicensed export by transporting the item from the United States to Syria.
5. *One Violation of 15 C.F.R. § 764.2(g) - Misrepresentation of License Code on Automated Export System Record:* With respect to the January 19, 2004 export described above, FedEx filed or caused to be filed with the U.S. Government an Automated Export System record that represented that the export in question did not require an export license. The representation was false because Section 742.9 of the Regulations required a license to export the item in question.

WHEREAS, BIS and FedEx have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

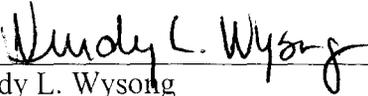
FIRST, that a civil penalty of \$40,000 is assessed against FedEx, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), 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, FedEx will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that 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, license exception, permission, or privilege granted, or to be granted, to FedEx. Accordingly, if FedEx should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of FedEx'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.

  
Wendy L. Wyson  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 4th day of October 2005.

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

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In the Matter of: )  
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Federal Express Corporation )  
3610 Hacks Cross Road )  
Memphis, Tennessee 38125 )  
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Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between the Federal Express Corporation (“FedEx”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

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<sup>1</sup> The violations charged occurred in 2001 and 2004. The Regulations governing the violations at issue are found in the 2001 and 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 and 2004)). The 2005 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 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 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004, (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

WHEREAS, BIS has notified FedEx of its intention to initiate an administrative proceeding against FedEx, pursuant to the Act and the Regulation;

WHEREAS, BIS has issued a proposed charging letter to FedEx that alleged that FedEx committed five violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. §764.2(k) - Exporting on Behalf of a Denied Party:*  
On or about September 19, 2001, FedEx, in connection with the shipment described in International Air Waybill 8265 6000 1979, took action prohibited by a denial order by exporting one package of used clothes, items subject to the Regulations, on behalf of the Tetrabal Corp., 316 Candlewood Pl., Richardson, TX 75081. The Tetrabal Corp. was at the time of export subject to a temporary denial of its export privileges. *See 66 Fed. Reg. 47630 (Sept. 13, 2001).* The temporary denial order prohibited any person from exporting or reexporting “to or on behalf of anyone subject to this order any item subject to the [Regulations].”
2. *One Violation of 15 C.F.R. § 764.2(k) - Exporting on Behalf of a Denied Party:*  
On or about July 30, 2001, FedEx, in connection with the shipment described in International Air Waybill 8288 4813 5535, took action prohibited by a denial order by exporting one package of a used amusement ride computer, items subject to the Regulations, on behalf of Yuri Montgomery, M&M Avionics, Inc., 518 Howard Ave NE, Olympia, WA 98506. Yuri Montgomery was at the time of export subject to an order denying his export privileges. *See 65 Fed. Reg. 57313 (Sept. 22, 2000).* The denial order prohibited any person from exporting or

reexporting “to or on behalf of anyone subject to this order any item subject to the Regulations.”

3. *One Violation of 15 C.F.R. § 764.2(e) - Transporting with Knowledge of a Violation of the Regulations:* With respect to the July 30, 2001 export on behalf of Yuri Montgomery described above, FedEx transported a used amusement ride computer, an item subject to the Regulations, on behalf of Yuri Montgomery with knowledge that doing so was a violation of the order denying Yuri Montgomery’s export privileges. At all times relevant hereto, FedEx knew or had reason to know that Yuri Montgomery had been denied his export privileges and that Yuri Montgomery had not sought the approval of the Department of Commerce, as set forth in Section 764.3(a)(2) of the Regulations, for the export.
4. *One Violation of 15 C.F.R. § 764.2(b) - Aiding and Abetting an Export to Syria Without the Required License:* On or about January 19, 2004, FedEx, in connection with the shipment described in International Air Waybill 8394 5692 2255, aided and abetted the export of a computer, an item classified under Export Control Classification Number 4A994, to Syria without the Department of Commerce license required by section 742.9 of the Regulations. FedEx aided and abetted the unlicensed export by transporting the item from the United States to Syria.
5. *One Violation of 15 C.F.R. § 764.2(g) - Misrepresentation of License Code on Automated Export System Record:* With respect to the January 19, 2004 export

described above, FedEx filed or caused to be filed with the U.S. Government an Automated Export System record that represented that the export in question did not require an export license. The representation was false because Section 742.9 of the Regulations required a license to export the item in question.

WHEREAS, FedEx has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, FedEx fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

WHEREAS, FedEx enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, FedEx states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, FedEx neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, FedEx wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, FedEx agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over FedEx, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanctions shall be imposed against FedEx in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. FedEx shall be assessed a civil penalty in the amount of \$40,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to FedEx. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of FedEx's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, FedEx hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against FedEx in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

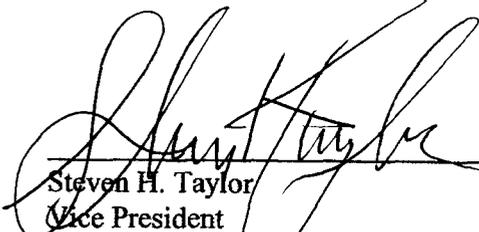
8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

  
\_\_\_\_\_  
Michael D. Turner  
Director  
Office of Export Enforcement

FEDERAL EXPRESS CORPORATION

  
\_\_\_\_\_  
Steven H. Taylor  
Vice President  
Regulatory Affairs

Date: 10/3/05

Date: 9/27/05

AMENDED PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Federal Express Corporation  
d/b/a FedEx Express  
3610 Hacks Cross Road  
Memphis, Tennessee 38125

Attention: *David J. Bronczek*  
*President & CEO*

Dear Mr. Bronczek:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that the Federal Express Corporation, doing business as FedEx Express (“FedEx”), of Memphis, Tennessee, has committed five violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the “Act”).<sup>2</sup> Specifically, BIS charges that FedEx committed the following violations:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred in 2001 and 2004. The Regulations governing the violation at issue are found in the 2001 and 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001, 2004)). The 2004 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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 6, 2004 (69 Fed. Reg. 48763 (Aug. 10, 2004)), continues the Regulations in effect under IEEPA.

**Charge 1 (15 C.F.R. §764.2(k) - Exporting on Behalf of a Denied Party)**

On or about September 19, 2001, FedEx, in connection with the shipment described in International Air Waybill 8265 6000 1979, took action prohibited by a denial order by exporting one package of used clothes, items subject to the Regulations, on behalf of the Tetrabal Corp., 316 Candlewood Pl., Richardson, TX 75081. The Tetrabal Corp. was at the time of export subject to a temporary denial of its export privileges. *See 66 Fed. Reg. 47630* (Sept. 13, 2001). The temporary denial order prohibited any person from exporting or reexporting “to or on behalf of anyone subject to this order any item subject to the [Regulations].” In so doing, FedEx committed one violation of Section 764.2(k) of the Regulations.

**Charge 2 (15 C.F.R. § 764.2(k) - Exporting on Behalf of a Denied Party)**

On or about July 30, 2001, FedEx, in connection with the shipment described in International Air Waybill 8288 4813 5535, took action prohibited by a denial order by exporting one package of a used amusement ride computer, items subject to the Regulations, on behalf of Yuri Montgomery, M&M Avionics, Inc., 518 Howard Ave NE, Olympia, WA 98506. Yuri Montgomery was at the time of export subject to an order denying his export privileges. *See 65 Fed. Reg. 57313* (Sept. 22, 2000). The denial order prohibited any person from exporting or reexporting “to or on behalf of anyone subject to this order any item subject to the Regulations.” In so doing, FedEx committed one violation of Section 764.2(k) of the Regulations.

**Charge 3 (15 C.F.R. § 764.2(e) - Transporting with Knowledge of a Violation of the Regulations)**

With respect to the export described in Charge 2 above, FedEx transported a used amusement ride computer, an item subject to the Regulations, on behalf of Yuri Montgomery with knowledge that doing so was a violation of the order denying Yuri Montgomery’s export privileges. At all times relevant hereto, FedEx knew or had reason to know that Yuri Montgomery had been denied his export privileges and that Yuri Montgomery had not sought the approval of the Department of Commerce, as set forth in Section 764.3(a)(2) of the Regulations, for the export. In so doing, FedEx committed one violation of Section 764.2(e) of the Regulations.

**Charge 4 (15 C.F.R. § 764.2(b) - Aiding and Abetting an Export to Syria Without the Required License)**

On or about January 19, 2004, FedEx, in connection with the shipment described in International Air Waybill 8394 5692 2255, aided and abetted the export of a computer, an item classified

under Export Control Classification Number 4A994, to Syria without the Department of Commerce license required by section 742.9 of the Regulations. FedEx aided and abetted the unlicensed export by transporting the item from the United States to Syria. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

**Charge 5 (15 C.F.R. § 764.2(g) - Misrepresentation of License Code on Automated Export System Record)**

With respect to the export described in Charge 3 above, FedEx filed or caused to be filed with the U.S. Government an Automated Export System record that represented that the export in question did not require an export license. The representation was false because Section 742.9 of the Regulations required a license to export the item in question. By making this false representation to the U.S. Government in connection with an export activity subject to the Regulations, FedEx committed one violations of Section 764.2(g) of the Regulations.

\* \* \* \* \*

Accordingly, FedEx 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 up to \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

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

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(2).

Federal Express Corporation  
Amended Proposed Charging Letter  
Page 4

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

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

Peter R. Klason is the attorney representing BIS in this case; any communications that FedEx may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement