

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

In the Matter of:

Folasade Omowanile  
522 Kosciuszko Street #3  
Brooklyn, NY 11221

Respondent

**ORDER RELATING TO FOLASADE OMOWANILE**

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Folasade Omowanile of Brooklyn, New York (“Omowanile”), of its intention to initiate an administrative proceeding against Omowanile pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> through the issuance of a Proposed Charging Letter to Omowanile that alleges that Omowanile committed one violation of the Regulations.<sup>2</sup> Specifically, the charge is:

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232, 132 Stat. 2208 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The charged violation occurred in 2014. The Regulations governing the violation at issue are found in the 2014 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2018 Regulations set forth the procedures that apply to this matter.

**Charge 1**                      **15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation**

On or about November 2, 2014, Omowanile caused, aided and/or abetted one or more violations of the Regulations in connection with the export of handcuffs and legcuffs (the “items”) to Nigeria. At all times pertinent to the transaction at issue, the items were subject to the Regulations, classified on the Commerce Control List (the “CCL”) under Export Control Classification Number (“ECCN”) 0A982, and controlled for Crime Control reasons. The handcuffs were valued at approximately \$10,032 and the legcuffs at approximately \$2,311. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Nigeria. In addition, Section 758.1 of the Regulations required that Electronic Export Information (“EEI”) for the export of these items be filed in the Automated Export System (“AES”).<sup>3</sup> However, as further described below, no EEI was filed declaring the items, nor was a license sought or obtained for their export.

An acquaintance of Omowanile paid him to place the items at issue in three used vehicles that he was exporting to Nigeria. Omowanile placed the items inside the vehicles, which were then placed inside a container for export. Omowanile failed to declare the handcuffs and legcuffs in the transaction documents he prepared, or to identify the exporter of the handcuffs and legcuffs, or their foreign consignee, and instead only provided the forwarding agent with information on the three vehicles. As a result, when the forwarder made an AES filing in connection with the export, EEI was filed for only the three vehicles, and none was filed for the shipment of the handcuffs or legcuffs at issue.

Section 764.2(b) of the Regulations provides that “[n]o person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder.” 15 C.F.R. § 764.2(b). The export of an item without the required BIS license constitutes a violation of Section 764.2(a) of the Regulations. In addition, the failure to file required EEI violates Section 764.2(a) of the Regulations.<sup>4</sup>

In so causing, aiding, and/or abetting one or more violations of the Regulations, Omowanile violated of Section 764.2(b) of the Regulations.

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<sup>3</sup> Section 758.1 of the EAR states “Except when the export of items subject to the EAR is to take place electronically or in an otherwise intangible form, you must file EEI in the AES with the United States Government . . . [f]or all exports subject to the EAR that require submission of a license application, regardless of value or destination” and “[f]or all exports of commodities . . . subject to the EAR when the value of the commodities . . . classified under a single Schedule B Number (or HTS) is over \$2,500 . . . .”

<sup>4</sup> “No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.” 15 C.F.R. § 764.2(a). *See also* 15 C.F.R. §§ 742.7 and 758.1.

WHEREAS, BIS and Omowanile 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 of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, Omowanile shall be assessed a civil penalty in the amount of \$10,000.

The payment of \$1,000 shall be made to the U.S. Department of Commerce on or before July 1, 2019. Payment of the remaining \$9,000 shall be suspended for a period of three years from the date of this Order, and thereafter shall be waived, provided that during this three-year probationary period, Omowanile has not committed another violation of the Export Control Reform Act of 2018 (ECRA”),<sup>5</sup> the Regulations, or any order, license, or authorization issued under ECRA or the Regulations, and has made full and timely payment of \$1,000 as set forth above.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2012)), 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, Omowanile 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, the full and timely payment of the civil penalty as set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export

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<sup>5</sup> See note 1, *supra*.

license, license exception, permission, or privilege granted, or to be granted, to Omowanile.

FOURTH, for a period of three (3) years from the date of this Order, Omowanile, with a last known address of 522 Kosciuszko Street #3, Brooklyn, NY 11221, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "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 engaging 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 from any other activity subject to the Regulations.

FIFTH, 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.

SIXTH, 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 ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

SEVENTH, as authorized by Section 766.18(c) of the Regulations, the three-year denial period set forth above shall be suspended during a probationary period of three years under this Order, and shall thereafter be waived, provided that Omowanile has made full and timely payment as set forth above and has not committed another violation of ECRA, the Regulations, or any order, license, or authorization issued under ECRA or the Regulations. If Omowanile does not make full and timely payment as set forth above, or during the three-year probationary period commits another violation of ECRA, the Regulations, or any order, license, or authorization issued under ECRA or the Regulations, the suspension may be modified or revoked by BIS and a denial order including a three-year denial period activated against Omowanile. If the suspension is modified or revoked, the activation order may also revoke any BIS licenses in which Omowanile has an interest at the time of the activation order.<sup>6</sup>

EIGHTH, Omowanile shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or this Order. The foregoing does not affect Omowanile's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil

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<sup>6</sup> Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA's enactment on August 13, 2018. *See* note 1, *supra*.

litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

NINTH, 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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Douglas R. Hassebrock  
Director, Office of Export Enforcement,  
performing the non-exclusive functions  
and duties of the Assistant Secretary of  
Commerce for Export Enforcement

Issued this 17<sup>th</sup> day of January 2019.

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

In the Matter of:

Folasade Omowanile  
522 Kosciuszko Street #3  
Brooklyn, NY 11221

Respondent

**SETTLEMENT AGREEMENT**

This Settlement Agreement ("Agreement") is made by and between Folasade Omowanile of Brooklyn, New York ("Omowanile"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (the "Regulations").<sup>1</sup>

WHEREAS, BIS has notified Omowanile of its intentions to initiate an administrative proceeding against Omowanile, pursuant to the Regulations;<sup>2</sup>

<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) ("the EAA"), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) ("IEEPA"). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232, 132 Stat. 2208 ("ECRA"). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The charged violation occurred in 2014. The Regulations governing the violation at issue are found in the 2014 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2018 Regulations set forth the procedures that apply to this matter.

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WHEREAS, BIS has issued a Proposed Charging Letter to Omowanile that alleges that Omowanile committed one violation of the Regulations, specifically:

**Charge 1                    15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation**

On or about November 2, 2014, Omowanile caused, aided and/or abetted one or more violations of the Regulations in connection with the export of handcuffs and legcuffs (the "items") to Nigeria. At all times pertinent to the transaction at issue, the items were subject to the Regulations, classified on the Commerce Control List (the "CCL") under Export Control Classification Number ("ECCN") 0A982, and controlled for Crime Control reasons. The handcuffs were valued at approximately \$10,032 and the legcuffs at approximately \$2,311. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Nigeria. In addition, Section 758.1 of the Regulations required that Electronic Export Information ("EEI") for the export of these items be filed in the Automated Export System ("AES").<sup>3</sup> However, as further described below, no EEI was filed declaring the items, nor was a license sought or obtained for their export.

An acquaintance of Omowanile paid him to place the items at issue in three used vehicles that he was exporting to Nigeria. Omowanile placed the items inside the vehicles, which were then placed inside a container for export. Omowanile failed to declare the handcuffs and legcuffs in the transaction documents he prepared, or to identify the exporter of the handcuffs and legcuffs, or their foreign consignee, and instead only provided the forwarding agent with information on the three vehicles. As a result, when the forwarder made an AES filing in connection with the export, EEI was filed for only the three vehicles, and none was filed for the shipment of the handcuffs or legcuffs at issue.

Section 764.2(b) of the Regulations provides that "[n]o person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder." 15 C.F.R. § 764.2(b). The export of an item without the required BIS license constitutes a violation of Section 764.2(a) of the Regulations. In addition, the failure to file required EEI violates Section 764.2(a) of the Regulations.<sup>4</sup>

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<sup>3</sup> Section 758.1 of the EAR states "Except when the export of items subject to the EAR is to take place electronically or in an otherwise intangible form, you must file EEI in the AES with the United States Government . . . [f]or all exports subject to the EAR that require submission of a license application, regardless of value or destination" and "[f]or all exports of commodities . . . subject to the EAR when the value of the commodities . . . classified under a single Schedule B Number (or HTS) is over \$2,500. . . ."

<sup>4</sup> "No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder." 15 C.F.R. § 764.2(a). *See also* 15 C.F.R. §§ 742.7 and 758.1.

In so causing, aiding, and/or abetting one or more violations of the Regulations, Omowanile violated of Section 764.2(b) of the Regulations.

WHEREAS, Omowanile has reviewed the Proposed 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;

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

WHEREAS, Omowanile enters into this Agreement voluntarily and with full knowledge of his rights;

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

WHEREAS, Omowanile neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Omowanile agrees to be bound by the Order, if issued;

NOW, THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Omowanile, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Omowanile:
  - a. Omowanile shall be assessed a civil penalty in the amount of \$10,000. The payment of \$1,000 shall be made to the U.S. Department of Commerce on or before July 1, 2019. Payment shall be made in the manner

(3)

specified in the attached instructions. Payment of the remaining \$9,000 shall be suspended for a period of three years from the date of the Order, and thereafter shall be waived, provided that during this three-year probationary period under the Order, Omowanile has not committed another violation of the Export Control Reform Act of 2018 ("ECRA"),<sup>5</sup> the Regulations, or any order, license or authorization issued under ECRA or the Regulations, and has made full and timely payment of \$1,000 as set forth above.

b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a 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 Omowanile.

c. For a period of three (3) years from the date of the Order, Folasade Omowanile, with a last known address of 522 Kosciuszko Street #3, Brooklyn, NY 11221, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "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:

i. Applying for, obtaining, or using any license, license exception, or export control document;

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<sup>5</sup> See note 1, *supra*.

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 engaging in any other activity subject to the Regulations; or

iii. 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 from any other activity subject to the Regulations.

d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the three-year denial period set forth in Paragraph 2.c above shall be suspended during a probationary period of three years under the Order, and shall thereafter be waived, provided that Omowanile has made full and timely payment in accordance with Paragraph 2.a above and has not committed another violation of ECRA, the Regulations, or any order, license, or authorization issued under ECRA or the Regulations. If Omowanile does not make full and timely payment in accordance with Paragraph 2.a above, or during the three-year probationary period under the Order commits another violation of the ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations, the suspension may be modified or revoked by BIS and a denial order including a three-year denial period activated against Omowanile. If the

suspension is modified or revoked, the activation order may also revoke any BIS licenses in which Omowanile has an interest at the time of the activation order.<sup>6</sup>

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Omowanile hereby waives all rights to further procedural steps in this matter (except the procedural steps set forth in Sections 766.17(c) and 766.18(c) of the Regulations with respect to the possible activation of suspended sanctions due to a violation or violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) receive an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Omowanile also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Omowanile pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Omowanile shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Omowanile's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil

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<sup>6</sup> Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA's enactment on August 13, 2018. See Note 1, *supra*.

litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against Omowanile in connection with any violation of the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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 issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing 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. If the Order issues, BIS will make the Proposed Charging Letter, this Agreement, and the Order available to the public.

(5)

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

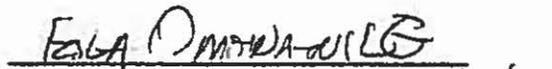
BUREAU OF INDUSTRY AND  
SECURITY  
U.S. DEPARTMENT OF COMMERCE



John Sonderman  
Deputy Director  
Office of Export Enforcement

Date: ~~December~~ January 17, 2018<sup>9</sup>  
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FOLASADE OMOWANILE

  
FOLASADE OMOWANILE 12/31/18

Date: December 31, 2018



PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Folasade Omowanile  
522 Kosciuszko Street #3  
Brooklyn, NY 11221

Dear Mr. Omowanile:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Folasade Omowanile, of Brooklyn, New York, have violated the Export Administration Regulations (the “EAR” or the “Regulations”).<sup>1</sup> Specifically, BIS alleges that you committed the following violation:

**Charge 1                    15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation**

On or about November 2, 2014, Omowanile caused, aided and/or abetted one or more violations of the Regulations in connection with the export of handcuffs and legcuffs (the “items”) to Nigeria. At all times pertinent to the transaction at issue, the items were subject to the Regulations, classified on the Commerce Control List (the “CCL”) under Export Control Classification Number (“ECCN”) 0A982, and controlled for Crime Control reasons. The handcuffs were valued at approximately \$10,032 and the legcuffs at approximately \$2,311. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Nigeria. In addition, Section 758.1 of the Regulations required that Electronic Export Information (“EEI”) for the export of these items be filed

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<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015)(“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), continued the Regulations under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012)(“IEEPA”), including during the time period of violation at issue, which occurred in 2014. On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232, which includes the Export Control Reform Act of 2018 in Title XVII, Subtitle B (“ECRA”). Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of the date of ECRA’s enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to authority provided under ECRA. The Regulations as currently codified, 15 C.F.R. Parts 730-774 (2018), govern the procedural aspects of this case. The 2014 versions of the Regulations can be found at 15 C.F.R. Parts 730-774 (2014).

in the Automated Export System (“AES”).<sup>2</sup> However, as further described below, no EEI was filed declaring the items, nor was a license sought or obtained for their export.

An acquaintance of Omowanile paid him to place the items at issue in three used vehicles that he was exporting to Nigeria. Omowanile placed the items inside the vehicles, which were then placed inside a container for export. Omowanile failed to declare the handcuffs and legcuffs in the transaction documents he prepared, or to identify the exporter of the handcuffs and legcuffs, or their foreign consignee, and instead only provided the forwarding agent with information on the three vehicles. As a result, when the forwarder made an AES filing in connection with the export, EEI was filed for only the three vehicles, and none was filed for the shipment of the handcuffs or legcuffs at issue.

Section 764.2(b) of the Regulations provides that “[n]o person may cause or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder.” 15 C.F.R. § 764.2(b). The export of an item without the required BIS license constitutes a violation of Section 764.2(a) of the Regulations. In addition, the failure to file required EEI violates Section 764.2(a) of the Regulations.<sup>3</sup>

In so causing, aiding, and/or abetting one or more violations of the Regulations, Omowanile violated of Section 764.2(b) of the Regulations.

\* \* \* \* \*

Accordingly, Omowanile is hereby notified that an administrative proceeding is instituted against him pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including, but not limited to any or all of the following:

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<sup>2</sup> Section 758.1 of the EAR states “Except when the export of items subject to the EAR is to take place electronically or in an otherwise intangible form, you must file EEI in the AES with the United States Government . . . [f]or all exports subject to the EAR that require submission of a license application, regardless of value or destination” and “[f]or all exports of commodities . . . subject to the EAR when the value of the commodities . . . classified under a single Schedule B Number (or HTS) is over \$2,500. . . .”

<sup>3</sup> “No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any conduct required by, the EAA, the EAR, or any order, license or authorization issued thereunder.” 15 C.F.R. § 764.2(a). *See also* 15 C.F.R. §§ 742.7 and 758.1.

- The maximum civil penalty allowed by law of up to the greater of \$295,141 per violation,<sup>4</sup> or twice the value of the transaction that is the basis of the violation;<sup>5</sup>
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If Omowanile fails to answer the charge 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If Omowanile defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to Omowanile. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charge in this letter.

Omowanile is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Omowanile is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *See* 15 C.F.R. §§ 766.3(a) and 766.4. The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Omowanile have a proposal to settle this case, Omowanile should transmit it to the attorney representing BIS named below.

Omowanile is further notified that under the Small Business Regulatory Enforcement Flexibility Act, he may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Omowanile'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

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<sup>4</sup> *See* 15 C.F.R. §§ 6.3(b)(4) and 6.4. This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. *See* 83 Fed. Reg. 706, 707 (Jan. 8, 2018) (Adjusting for inflation this amount under IEEPA from \$289,238 to \$295,141, effective January 15, 2018). *See also* note 1, *supra*.

<sup>5</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007). *See* note 1, *supra*.

In addition, a copy of Omowanile's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
14th Street and Constitution Avenue, N.W.  
Room H-3839  
Washington, D.C. 20230  
Attention: Charles G. Wall, Esq.

Charles G. Wall is the attorney representing BIS in this case; any communications that Omowanile may wish to have concerning this matter should occur through him. Mr. Wall may be contacted by telephone at (202) 482-1232.

Sincerely,

John Sonderman  
Deputy Director  
Office of Export Enforcement