

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE

In the Matter of

Mirasco Inc.

Case No. 19-01

ORDER

The Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce (“BIS”), has notified Mirasco Inc. (“Mirasco”) of its intention to initiate an administrative proceeding pursuant to the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2020)) (the “Regulations”),¹ against Mirasco, a domestic concern, organized under the laws of the United States and doing business in the State of Georgia, based on allegations set forth in the Proposed Charging Letter, dated August 30, 2019, that Mirasco committed four violations of the Regulations.

¹ 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 of which was August 14, 2019 (84 Fed. Reg. 41881 (Aug. 15, 2019)), 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, 50 U.S.C. §§ 4801-4852 (“ECRA”). The Anti-Boycott Act of 2018 is a subpart of 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as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

Specifically, the Proposed Charging Letter alleged:

1. One violation of 15 C.F.R. §760.2(d) – Furnishing Information About Business Relationships With Boycotted Countries or Blacklisted Persons

In connection with activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations, during the period October 2014 through January 2016, on one occasion, Mirasco, with intent to comply with, further or support an unsanctioned foreign boycott, furnished information concerning its business relationships with or in a boycotted country.

2. Three violations of 15 C.F.R. §760.5 – Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States:

In connection with activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations, during the period October 2014 through January 2016, on three occasions, Mirasco failed to report to the Department of Commerce the receipt of a request to engage in a restrictive trade practice or boycott.

BIS and Mirasco have 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 have been approved by me.

IT IS THEREFORE ORDERED THAT:

FIRST, a civil penalty of \$15,500 shall be assessed against Mirasco and shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment of this sum shall be made in the manner specified in the attached instructions.

SECOND, pursuant to the Debt Collections 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, Mirasco shall 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, Mirasco's compliance with the terms of the Settlement Agreement and this Order, as set forth above, including the full and timely payment of the civil penalty of \$15,500 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 Mirasco.

Accordingly, if Mirasco should fail to comply in full with the terms of the Settlement Agreement and this Order, the undersigned may issue an Order denying all of Mirasco's export privileges for a period of one year from the date of issuance of any such denial order.

FOURTH, 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.



P. Lee Smith

Performing the Non-exclusive Functions and Duties of the
Assistant Secretary of Commerce for Export Enforcement

Entered this 11 day of May, 2020

Attachments

In the Matter of
Mirasco Inc.

SETTLEMENT AGREEMENT

This agreement is made by and between Mirasco Inc. (“Mirasco”), a domestic concern, organized under the laws of the United States and doing business in the State of Georgia, and the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce (“BIS”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2020)) (the “Regulations”)¹.

¹ 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 of which was August 14, 2019 (84 Fed. Reg. 41881 (Aug. 15, 2019)), 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, 50 U.S.C. §§ 4801-4852 (“ECRA”). The Anti-Boycott Act of 2018 is a subpart of 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 according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

WHEREAS, BIS has notified Mirasco of its intention to initiate an administrative proceeding against Mirasco pursuant to the Regulations by issuing the Proposed Charging Letter dated August 30, 2019, a copy of which is attached hereto and incorporated herein by this reference²;

WHEREAS, Mirasco has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

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

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

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

² The violations alleged occurred during the years 2015 and 2016. The Regulations governing the violations at issue are found in the 2015 and 2016 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2015 and 2016)). The 2020 Regulations govern the procedural aspects of this matter.

WHEREAS, Mirasco neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Mirasco agrees to be bound by the appropriate Order ("Order") when entered;

NOW THEREFORE, Mirasco and BIS agree as follows:

1. Under the Regulations, BIS has jurisdiction over Mirasco with respect to the matters alleged in the Proposed Charging Letter.
2. BIS will impose a civil penalty on Mirasco in the amount of \$15,500. Mirasco will pay to the U.S. Department of Commerce, within 30 days from the date of entry of the Order, and in accordance with the terms of the Order, when entered, the amount of \$15,500 in complete settlement of all matters set forth in the Proposed Charging Letter.
3. Compliance with the terms of this Settlement Agreement and the Order, when entered, including the full and timely payment of the civil penalty agreed to in paragraph 2, is hereby made a condition of the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Mirasco. Failure to comply fully with the terms of this Settlement Agreement and the Order, when entered, may result in the denial of all of Mirasco's export privileges for a period of one year from the date of issuance of any such denial order.

4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 7 hereof, Mirasco hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when 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 by Mirasco pursuant to this Settlement Agreement and the Order, when entered; or
- C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

Mirasco 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, and in connection with collection of the civil penalty or enforcement of this Settlement Agreement and the Order, when entered, from the date of entry of the Order until the date that Mirasco has paid in full the civil penalty as set forth in Paragraph 2, above.

5. BIS, upon full and timely payment by Mirasco of the civil penalty set forth in Paragraph 2, above, will not initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Mirasco with respect to any violation of Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by BIS in the course of its investigation.

6. Mirasco understands that BIS will make the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered, available to the public.
7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Mirasco that it has violated the Regulations, or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary of Commerce for Export Enforcement, BIS may not use this Settlement Agreement against Mirasco in any administrative or judicial proceeding, and BIS and Mirasco shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.
8. This Settlement Agreement constitutes and contains the entire agreement and understanding of BIS and Mirasco.

No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise alter or affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement 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 herein addressed. This paragraph shall not limit Mirasco's right to challenge any action brought by any other agency based on a referral by

BIS or any employee thereof, in contravention of paragraph 5 of this Settlement Agreement.

9. This Settlement Agreement shall become binding on BIS and Mirasce only when approved by the Assistant Secretary of Commerce for Export Enforcement by entering the Order, which shall have the same force and effect as a decision and Order issued after a full administrative hearing on the record.
10. 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.
11. If any provision of the Settlement Agreement is found to be unlawful, only the specific provision in question shall be affected and the other provisions shall remain in full force and effect.

MIRASCE INC.



By: R. E. Hamilton Jr.
Executive Vice President
Chief Financial Officer
U.S. DEPARTMENT OF COMMERCE

DATE:

4/23/2020



Cathleen Ryan
Director
Office of Antiboycott Compliance

DATE:

29 April 2020

Attachment



PROPOSED CHARGING LETTER

August 30, 2019

Mirasco Inc.
900 Circle 75 Parkway
Atlanta, GA 30339

Attention: Ibrahim Fahmy
International Controller

Case No. 19-01

Gentlemen/Ladies:

We, the Office of Antiboycott Compliance, Bureau of Industry and Security, United States Department of Commerce ("BIS"), have reason to believe that you, Mirasco Inc., on four occasions, have violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2019)) (the "Regulations")¹.

We charge that you committed one violation of Section 760.2(d) of the Regulations, in that, on one occasion, with intent to comply with, further or support an unsanctioned foreign boycott, you furnished information concerning another person's business relationships with another person who is known or believed to be restricted from having any business relationship with or in a boycotting country.

¹ The transactions and violations alleged occurred during the years 2014 through 2016. The Regulations governing the violations at issue are found in the 2014 through 2016 versions of the Code of Federal Regulations (15 C.F.R. Parts 730 – 774 (2014, 2015 and 2016)). The 2019 Regulations govern the procedural aspects of this matter.

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 of which was August 14, 2019 (84 Fed. Reg. 41881 (Aug. 15, 2019)), 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 ("ECRA"). The Anti-Boycott Act of 2018, Title XVII, Subtitle B, Part II of Pub. L. 115-232, is a subpart of ECRA. ECRA provides permanent authority for the Regulations. 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 according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.



We also charge that you committed three violations of Section 760.5 of the Regulations, in that, on three occasions, you failed to report to the Department of Commerce your receipt of a request to engage in a restrictive trade practice or boycott, as required by the Regulations.

We allege that:

You, Mirasco Inc., are, and at all times relevant were, a domestic concern, organized under the laws of the United States and doing business in the State of Georgia. As such, you are a United States person, as defined in Section 760.1(b) of the Regulations.

During the period October 2014 through January 2016, you engaged in transactions involving the sale and/or transfer of goods or services (including information) from the United States to Qatar and the United Arab Emirates, activities in the interstate or foreign commerce of the United States, as defined in Section 760.1(d) of the Regulations.

Charge 1 (15 C.F.R. §760.2(d) – Furnishing Information about Business Relationships with Boycotted Countries or Blacklisted Persons)

In connection with the activities referred to above, on one occasion, on or about May 11, 2015, you furnished to the letter of credit advising bank, information, as described in Table A, which is attached and incorporated herein by this reference, concerning another person's business relationships with another person who is known or believed to be restricted from having any business relationship with or in a boycotting country.

Providing the information described in Table A, with intent to comply with, further or support an unsanctioned foreign boycott, is an activity prohibited by Section 760.2(d) of the Regulations, and not excepted. We therefore charge you with one violation of Section 760.2(d).

Charges 2 – 4 (15 C.F.R. §760.5 – Failing to Report the Receipt of a Request to Engage in a Restrictive Trade Practice or Foreign Boycott Against a Country Friendly to the United States)

In connection with the activities referred to above, during the period October 2014 through January 2016, on three occasions, you received a request, as described in Table B, which is attached and incorporated herein by this reference, to take an action which would have the effect of furthering or supporting a restrictive trade practice or unsanctioned foreign boycott.

Section 760.5 of the Regulations requires United States persons to report to the Department of Commerce their receipts of such requests. You failed to report to the Department of Commerce your receipts of these requests.

By failing to report your receipts of these requests, described in Table B, as directed by Section 760.5 of the Regulations, you are in violation of Section 760.5. We therefore charge you with three violations of Section 760.5 of the Regulations.

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions.²

You are entitled to an agency hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel or other authorized representative who has power of attorney to represent you. *See* Sections 766.3(a) and 766.4 of the Regulations. You may also seek settlement without a hearing. *See* Section 766.18 of the Regulations.

Under the Small Business Regulatory Enforcement Flexibility Act, you may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter.³

If you fail to answer the allegations contained in this letter within thirty (30) days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3 of the Regulations, we are referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BIS 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.

Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filed with:

U.S. Coast Guard ALJ Docketing Center
40 South Gay Street
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

² The alleged violations occurred prior to August 13, 2018, the date of enactment of the ECRA. Consequently, the potential violations are provided for in IEEPA.

Administrative sanctions may include any or all of the following:

- a. A maximum civil penalty of the greater of \$302,584 per violation or twice the value of the transaction that is the basis of the violation (*see* 15 C.F.R. § 6.3(b)(4), § 6.4). The 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 and 84 Fed. Reg. 2,447 (Feb. 7, 2019) (*See also* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007));
- b. Denial of export privileges (*see* § 764.3(a)(2) of the Regulations); and/or
- c. Exclusion from practice before BIS (*see* § 764.3(a)(3) of the Regulations); and/or
- d. Any other liability, sanction, or penalty available under law.

³ To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should be served on the Bureau of Industry and Security at the following address:

Office of the Chief Counsel for Industry and Security
U.S. Department of Commerce
Room H-3839
14th Street & Constitution Avenue, NW
Washington, D.C. 20230

Sincerely,

Cathleen Ryan
Director
Office of Antiboycott Compliance

Enclosures

TABLE A

Schedule of Alleged Violations of Section 760.2(d)
**FURNISHING INFORMATION ABOUT BUSINESS RELATIONSHIPS
 WITH BOYCOTTED COUNTRIES OR BLACKLISTED PERSONS**

MIRASCO INC.
 Case No. 19-01

Item	Transaction File(s)/ Letter of Credit #	Document Furnished	Date Furnished	Boycotting Country	Information Furnished
1	0038623 L/C #ILCI01/14/15138	CERTIFICATE	05/11/15	QATAR	THE LOADING VESSEL...IS PERMITTED TO ENTER ARAB PORTS.

TABLE B

Schedule of Alleged Violations of Section 760.5
FAILURE TO REPORT RECEIPTS OF BOYCOTT REQUESTS

MIRASCO INC.
Case No. 19-01

Item #	File Reference #	Letter of Credit #	Date Request Received	Date Reporting Violation*	Boycotting Country	Boycott Request
1	0038782	ILCQIB142862014	10/15/14	01/31/15	QATAR	46A: DOCUMENTS REQUIRED 8. CERTIFICATE FROM THE OWNER, CARRIER OR CAPTAIN OF THE CARRYING VESSEL OR THEIR AGENT...CONFIRMING THAT IT WILL NOT PASS BY ANY ISRAELI PORT THROUGH ITS PRESENT VOYAGE AND IS PERMITTED TO ENTER ARAB PORTS.
2	0038623	ILCI01/14/15138	12/22/14	01/31/15	QATAR	46A: DOCUMENTS REQUIRED 3. A CERTIFICATE FROM THE OWNER, AGENT OR CAPTAIN OF THE CARRYING VESSEL...CONFIRMING THAT IT IS...PERMITTED TO ENTER ARAB PORTS.
3	0041438	AHILC1600021	01/14/16	04/30/16	U.A.E.	46A: DOCUMENTS REQUIRED 5. A CERTIFICATE FROM THE CARRIER/MASTER OR THEIR AGENTS CERTIFYING...THE VESSEL IS ALLOWED TO ENTER ARABIAN/U.A.E. PORTS.

* As provided in Section 760.5(b)(4)(i) of the Regulations, where the person receiving the request is a United States person located in the United States, each report of requests must be postmarked by the last day of the month following the calendar quarter in which the request was received.