

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

In the Matter of: )  
 )  
Robert Abreu )  
Senior Director of Strategic Sales )  
Supermicro Computer, Inc. )  
980 Rock Ave. )  
San Jose, CA 95112 )  
 )  
Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Robert Abreu ("Abreu"), 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 (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act").<sup>2</sup>

<sup>1</sup> The charged violations occurred in 2001 through 2004. The Regulations governing the violations at issue are found in the 2001 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 - 2004)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

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

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

**Charges 1 – 4: 15 C.F.R. § 764.2(b): Aiding or Abetting the Export of Items Without the Required Licenses:**

On four occasions from on or about September 25, 2001, through on or about May 7, 2002, Abreu aided or abetted the doing of an act prohibited by the Regulations. Specifically, Abreu arranged or approved the terms of sales arrangements regarding the export of super servers (ECCN 4A994) and motherboards, items subject to the Regulations, by Supermicro from the United States to end-users in Iran. Supermicro subsequently exported the super servers and motherboards from the United States to Iran, through the United Arab Emirates ("UAE"), without the license required by Section 746.7(a)(2) of the Regulations. In engaging in the conduct described herein, Abreu committed four violations of Section 764.2(b) of the Regulations.

**Charge 5: 15 C.F.R. § 764.2(e): Selling Items With Knowledge That a Violation of the Regulations Was About to Occur:**

On or about March 7, 2002, in connection with the transaction referenced in Charge Four, Abreu sold items exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, Abreu sold the items described above to a distributor in the United Arab Emirates (UAE), when Abreu knew or had reason to know that these devices would be exported from the United States to Iran, via the distributor in the UAE, without the required U.S. Government authorization. Abreu had reason to know that these items were destined for Iran as Abreu sent an email describing the transaction referenced in Charge Four as a sale involving "Motherboards into Iran." Abreu had reason to know that a license was required for the export of these items since Abreu had previously sent an email to employees at Supermicro advising them of the U.S. embargo on Iran. In so doing, Abreu committed one violation of Section 764.2(e) of the Regulations.

**Charge 6: 15 C.F.R. § 764.2(g): False Statement to a BIS Special Agent in the Course of an Investigation:**

On or about May 26, 2004, Abreu made a false or misleading statement to officials of the U.S. Government in the course of an investigation conducted by BIS regarding the export of certain items subject to the Regulations to Iran. Specifically, in the course of an interview conducted by agents from BIS, Abreu represented that he first became aware that Supermicro's distributor in the UAE was doing business in Iran after Supermicro received a letter in April 2003. This

2. The following sanction shall be imposed against Abreu in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

a. Abreu shall be assessed a civil penalty in the amount of \$60,000, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

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, permission, or privilege granted, or to be granted, to Abreu. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Abreu's export privileges under the Regulations 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, Abreu 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$60,000 civil penalty, BIS will not initiate any further administrative proceeding against Abreu 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 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 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

ROBERT ABREU

Michael D. Turner  
Director  
Office of Export Enforcement

Date: 4/3/07

Robert Abreu  
Robert Abreu

Date: 3/27/07

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert Abreu  
Senior Director of Strategic Sales  
Supermicro Computer, Inc.  
980 Rock Ave.  
San Jose, CA 95112

Dear Mr. Abreu:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Robert Abreu, as Senior Director of Strategic Sales of Supermicro Computer, Inc. ("Supermicro") in your individual capacity ("Abreu"), have committed six violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that Abreu committed the following violations:

**Charges 1 – 4: 15 C.F.R. § 764.2(b): Aiding or Abetting the Export of Items Without the Required Licenses:**

On four occasions from on or about September 25, 2001, through on or about May 7, 2002, Abreu aided or abetted the doing of an act prohibited by the Regulations. Specifically, Abreu arranged or approved the terms of sales arrangements regarding the export of super servers (ECCN 4A994) and motherboards, items subject to the Regulations, by Supermicro from the United States to end-users in Iran. Supermicro subsequently exported the super servers and motherboards from the United States to Iran, through the United Arab Emirates ("UAE"), without the license required by Section 746.7(a)(2) of the Regulations. In engaging in the

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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 (2006). The charged violations occurred in 2001 through 2004. The Regulations governing the violations at issue are found in the 2001 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 – 2004)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

conduct described herein, Abreu committed four violations of Section 764.2(b) of the Regulations.

**Charge 5: 15 C.F.R. § 764.2(e): Selling Items With Knowledge That a Violation of the Regulations Was About to Occur:**

On or about March 7, 2002, in connection with the transaction referenced in Charge Four, Abreu sold items exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, Abreu sold the items described above to a distributor in the United Arab Emirates (UAE), when Abreu knew or had reason to know that these devices would be exported from the United States to Iran, via the distributor in the UAE, without the required U.S. Government authorization. Abreu had reason to know that these items were destined for Iran as Abreu sent an email describing the transaction referenced in Charge Four as a sale involving "Motherboards into Iran." Abreu had reason to know that a license was required for the export of these items since Abreu had previously sent an email to employees at Supermicro advising them of the U.S. embargo on Iran. In so doing, Abreu committed one violation of Section 764.2(e) of the Regulations.

**Charge 6: 15 C.F.R. § 764.2(g): False Statement to a BIS Special Agent in the Course of an Investigation:**

On or about May 26, 2004, Abreu made a false or misleading statement to officials of the U.S. Government in the course of an investigation conducted by BIS regarding the export of certain items subject to the Regulations to Iran. Specifically, in the course of an interview conducted by agents from BIS, Abreu represented that he first became aware that Supermicro's distributor in the UAE was doing business in Iran after Supermicro received a letter in April 2003. This representation was false or misleading, as Abreu knew, prior to April 2003, that the distributor in the UAE was conducting business in Iran. In so doing, Abreu committed one violation of Section 764.2(g) of the Regulations.

\* \* \* \*

Accordingly, Abreu is hereby notified that an administrative proceeding is instituted against him 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 \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

<sup>3</sup> 15 C.F.R. § 6.4 (2001), *as supplemented by* 68 Fed. Reg. 4,380 (Jan. 29, 2003), *and* 68 Fed. Reg. 69,001 (Dec. 11, 2003); 15 C.F.R. § 6.4 (2004).

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

Abreu 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. Abreu 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 Abreu have a proposal to settle this case, Abreu or his representative should transmit it to 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, Abreu'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 Abreu's answer must be served on BIS at the following address:

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

James C. Pelletier is the attorney representing BIS in this case; any communications that Abreu may wish to have concerning this matter should occur through him. Mr. Pelletier may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement



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

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In the Matter of: )  
 )  
Robert Abreu )  
Senior Director of Strategic Sales )  
Supermicro Computer, Inc. )  
980 Rock Ave. )  
San Jose, CA 95112 )  
 )  
..... Respondent )

ORDER RELATING TO ROBERT ABREU

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Robert Abreu (“Abreu”), of its intention to initiate an administrative proceeding against Abreu pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (the “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)) (the “Act”),<sup>2</sup> through the issuance of a proposed charging letter to Abreu that alleged that Abreu committed six violations of the Regulations. Specifically, the charges are:

.....  
<sup>1</sup> The charged violations occurred in 2001 through 2004. The Regulations governing the violations at issue are found in the 2001 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 – 2004)). The 2006 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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**Charge 5: 15 C.F.R. § 764.2(e): Selling Items With Knowledge That a Violation of the Regulations Was About to Occur:**

On or about March 7, 2002, in connection with the transaction referenced in Charge Four, Abreu sold items exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, Abreu sold the items described above to a distributor in the United Arab Emirates (UAE), when Abreu knew or had reason to know that these devices would be exported from the United States to Iran, via the distributor in the UAE, without the required U.S. Government authorization. Abreu had reason to know that these items were destined for Iran as Abreu sent an email describing the transaction referenced in Charge Four as a sale involving “Motherboards into Iran.” Abreu had reason to know that a license was required for the export of these items since Abreu had previously sent an email to employees at Supermicro advising them of the U.S. embargo on Iran. In so doing, Abreu committed one violation of Section 764.2(e) of the Regulations.

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WHEREAS, BIS and Abreu 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:

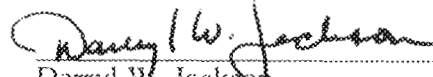
FIRST, that a civil penalty of \$60,000 is assessed against Abreu, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Abreu 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 Abreu. Accordingly, if Abreu should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Abreu's export privileges under the Regulations 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.



.....  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 13<sup>th</sup> day of April, 2007.