

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

In the Matter of:)
)
Development Alternatives, Inc.)
7600 Wisconsin Ave., Suite 200)
Bethesda, MD 20814)
)
Respondent)

ORDER RELATING TO DEVELOPMENT ALTERNATIVES, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Development Alternatives, Inc. (“DAI”), of its intention to initiate an administrative proceeding against DAI pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to DAI that alleged that DAI committed one violation of the Regulations. Specifically, the charge is:

¹ The violation alleged to have been committed occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2007 Regulations establish the procedures that apply to this matter.

² 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 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Charge 1 15 C.F.R. §764.2(c) - Attempt to Violate the Regulations by Exporting Concealable Vests, Body Armor and Bomb Blast Blankets to Iraq without the Required License

On or about July 9, 2004, DAI attempted to violate the Regulations by attempting to export concealable vests, body armor and bomb blast blankets to Iraq without the required U.S. Government authorization. Specifically, DAI attempted to export concealable vests, body armor and bomb blast blankets to Iraq. The concealable vests and body armor are subject to the Regulations and are classified as ECCN 1A005 and controlled for National Security and Anti-Terrorism concerns. The bomb blast blankets are subject to the Regulations and designated as EAR99. Pursuant to 746.3(a) of the Regulations, in order to comply with the Regulations, transactions subject to both the Regulations and the Iraqi Sanctions Regulations maintained by the Office of Foreign Assets Control, U.S. Department of the Treasury (OFAC), require OFAC authorization, and transactions subject to the Regulations that are not subject to the Iraqi Sanctions Regulations may require authorization from the Department of Commerce. The attempted exports to Iraq of the concealable vests, body armor and bomb blast blankets described herein were not authorized by OFAC or the Department of Commerce. In so doing, DAI committed one violation of Section 764.2(c) of the Regulations.

WHEREAS, BIS and DAI 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 \$7,500 is assessed against DAI, 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.

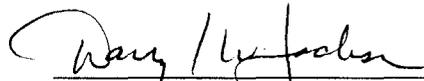
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, DAI will be assessed, in addition 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 DAI. Accordingly, if DAI should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of DAI'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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 13th day of September, 2007.

WHEREAS, BIS has issued a proposed charging letter to DAI that alleged that DAI committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. §764.2(c) - Attempt to Violate the Regulations by Exporting Concealable Vests, Body Armor and Bomb Blast Blankets to Iraq without the Required License

On or about July 9, 2004, DAI attempted to violate the Regulations by attempting to export concealable vests, body armor and bomb blast blankets to Iraq without the required U.S. Government authorization. Specifically, DAI attempted to export concealable vests, body armor and bomb blast blankets to Iraq. The concealable vests and body armor are subject to the Regulations and are classified as ECCN 1A005 and controlled for National Security and Anti-Terrorism concerns. The bomb blast blankets are subject to the Regulations and designated as EAR99. Pursuant to 746.3(a) of the Regulations, in order to comply with the Regulations, transactions subject to both the Regulations and the Iraqi Sanctions Regulations maintained by the Office of Foreign Assets Control, U.S. Department of the Treasury (OFAC), require OFAC authorization, and transactions subject to the Regulations that are not subject to the Iraqi Sanctions Regulations may require authorization from the Department of Commerce. The attempted exports to Iraq of the concealable vests, body armor and bomb blast blankets described herein were not authorized by OFAC or the Department of Commerce. In so doing, DAI committed one violation of Section 764.2(c) of the Regulations.

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

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

a. DAI shall be assessed a civil penalty in the amount of \$7,500, 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 DAI. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of DAI'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, DAI 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 \$7,500 civil penalty, BIS will not initiate any further administrative proceeding against DAI 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

DEVELOPMENT ALTERNATIVES, INC.

for: Thomas Madzgi
Kevin Delli-Colli
Director
Office of Export Enforcement

Date: 9/4/07

Albert H. Barclay Jr.
Albert H. Barclay
Chief Executive Officer

Date: August 27, 2007.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Development Alternatives, Inc.
7600 Wisconsin Ave., Suite 200
Bethesda, MD 20814

Attention: *Albert H. Barclay*
President

Dear Mr. Barclay:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that Development Alternatives, Inc. (“DAI”), of Bethesda, Maryland, has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that DAI committed the following violation:

Charge 1 15 C.F.R. §764.2(c) - Attempt to Violate the Regulations by Exporting Concealable Vests, Body Armor and Bomb Blast Blankets to Iraq without the Required License

On or about July 9, 2004, DAI attempted to violate the Regulations by attempting to export concealable vests, body armor and bomb blast blankets to Iraq without the required U.S. Government authorization. Specifically, DAI attempted to export concealable vests, body armor and bomb blast blankets to Iraq. The concealable vests and body armor are subject to the Regulations and are classified as ECCN 1A005 and controlled for National Security and Anti-

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The violation charged occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2007 Regulations govern the procedural aspects of this case.

² 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)), as extended most recently by the Notice of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis>.

Terrorism concerns.³ The bomb blast blankets are subject to the Regulations and designated as EAR99.⁴ Pursuant to 746.3(a) of the Regulations, in order to comply with the Regulations, transactions subject to both the Regulations and the Iraqi Sanctions Regulations maintained by the Office of Foreign Assets Control, U.S. Department of the Treasury (OFAC),⁵ require OFAC authorization, and transactions subject to the Regulations that are not subject to the Iraqi Sanctions Regulations may require authorization from the Department of Commerce. The attempted exports to Iraq of the concealable vests, body armor and bomb blast blankets described herein were not authorized by OFAC or the Department of Commerce. In so doing, DAI committed one violation of Section 764.2(c) of the Regulations.

* * * * *

Accordingly, DAI 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,⁶

Denial of export privileges; and/or

Exclusion from practice before BIS.

If DAI 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 DAI defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to DAI. 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.

³ The term "ECCN" refers to an Export Control Classification Number. *See* 15 C.F.R. § 772.1 (2004).

⁴ "EAR99" is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2004).

⁵ 31 C.F.R. Part 575 (2004).

⁶ *See* 15 C.F.R. § 6.4(a)(4) (2004).

Development Alternatives, Inc.
Proposed Charging Letter
Page 3 of 3

DAI is further notified that it is entitled to an agency hearing on the record if DAI files a written demand for one with its answer. (Regulations, Section 766.6). DAI 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).

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

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

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

Sincerely,

Michael Turner
Director
Office of Export Enforcement