

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

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In the Matter of: )  
)  
)  
BAX Global Inc. )  
330 E. Mahn Court )  
Oak Creek, Wisconsin 53154 )  
)  
Respondent )  
\_\_\_\_\_

ORDER RELATING TO BAX GLOBAL INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified BAX Global Inc. (“BAX”), of its intention to initiate an administrative proceeding against BAX pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (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 issuance of a proposed charging letter to BAX that alleged that BAX committed three violations of the Regulations. Specifically, the charges are:

<sup>1</sup> The violations alleged to have been committed occurred in 2004. The Regulation governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2008 Regulations establish 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 July 23, 2008 (73 Fed. Reg. 43,606 (Jul 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charges 1-3 15 C.F.R. § 764.2(b): Causing the Unlicensed Exports of HLA Tissue Typing Trays to Syria**

On three occasions between on or about June 9, 2004 and on or about October 13, 2004, BAX caused the doing of an act prohibited by the Regulations. Specifically, BAX forwarded HLA Tissue Typing Trays, items that are subject to the Regulations, to Syria without the required export license. Pursuant to General Order No. 2 of Supplement 1 to Part 736 of the Regulations, the export of these items from the United States to Syria required a Department of Commerce license and no license was obtained. In engaging in this activity, BAX committed three violations of Section 764.2(b) of the Regulations.

WHEREAS, BIS and BAX 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 \$20,000 is assessed against BAX, 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, BAX 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 BAX. Accordingly, if BAX should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of BAX'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.

for, Kami Dett. Call.  
Darryl Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 18<sup>th</sup> day of August, 2008.

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BUREAU OF INDUSTRY AND SECURITY  
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Respondent )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between BAX Global Inc. (“BAX”) 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 (2008)) (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>

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

<sup>1</sup> The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2008 Regulations establish 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 July 23, 2008 (73 Fed. Reg. 43,606 (Jul. 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

**Charges 1-3 15 C.F.R. § 764.2(b): Causing the Unlicensed Exports of HLA Tissue Typing Trays to Syria**

On three occasions between on or about June 9, 2004 and on or about October 13, 2004, BAX caused the doing of an act prohibited by the Regulations. Specifically, BAX forwarded HLA Tissue Typing Trays, items that are subject to the Regulations, to Syria without the required export license. Pursuant to General Order No. 2 of Supplement 1 to Part 736 of the Regulations, the export of these items from the United States to Syria required a Department of Commerce license and no license was obtained. In engaging in this activity, BAX committed three violations of Section 764.2(b) of the Regulations.

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

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

a. BAX shall be assessed a civil penalty in the amount of \$20,000, 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 BAX. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of BAX'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, BAX 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 \$20,000 civil penalty, BIS will not initiate any further administrative proceeding against BAX 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.

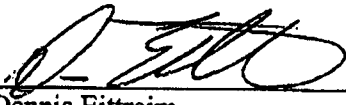
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

Settlement Agreement.  
BAX Global Inc.  
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BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

  
\_\_\_\_\_  
Thomas Madigan  
Director  
Office of Export Enforcement

BAX GLOBAL INC.

  
\_\_\_\_\_  
Dennis Eittreim,  
President - Americas  
BAX Global Inc.

Date: 8/18/8

Date: August 13, 2008



PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

BAX Global Inc.  
330 E. Mahn Court  
Oak Creek, Wisconsin 53154

Attn: *Export Manager*

Dear Sir or Ma'am:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that BAX Global Inc. of Oak Creek, Wisconsin ("BAX") has committed three 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 BAX committed the following violations:

**Charges 1-3 15 C.F.R. § 764.2(b): Causing the Unlicensed Exports of HLA Tissue Typing Trays to Syria**

On three occasions between on or about June 9, 2004 and on or about October 13, 2004, BAX caused the doing of an act prohibited by the Regulations. Specifically, BAX forwarded HLA Tissue Typing Trays, items that are subject to the Regulations, to Syria without the required export license. Pursuant to General Order No. 2 of Supplement 1 to Part 736 of the Regulations, the export of these items from the United States to Syria required a Department of Commerce license and no license was obtained. In engaging in this activity, BAX committed three violations of Section 764.2(b) of the Regulations.

\* \* \* \* \*

Accordingly, BAX 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 \$11,000 per violation;<sup>3</sup>

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The charged violations occurred in 2004. The Regulations governing the violations 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 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)) ("IEEPA"). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

<sup>3</sup> 15 C.F.R. § 6.4(a)(4).

- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

BAX is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. BAX is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *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 BAX have a proposal to settle this case, BAX or its 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, BAX'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 BAX's answer must be served on BIS at the following address:

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

Gregory Michelsen is the attorney representing BIS in this case; any communications that BAX may wish to have concerning this matter should occur through her. Mr. Michelsen may be contacted by telephone at (202) 482-5301.

BAX is further notified that under the Small Business Regulatory Enforcement Flexibility Act, BAX 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/>.

Sincerely,

John McKenna  
Acting Director  
Office of Export Enforcement