

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

In the Matter of:)
)
Eastways Shipping Corporation)
32 Broadway, Rm. 1809)
New York, NY 10004)
)
Respondent)

ORDER RELATING TO EASTWAYS SHIPPING CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Eastways Shipping Corporation (“Eastways”) of its intention to initiate an administrative proceeding against Eastways pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Eastways that alleged that Eastways committed three violations of the Regulations. Specifically, these charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

Charges 1-3 15 C.F.R. § 764.2(b): Aiding and Abetting an Act Prohibited by the Regulations

On three occasions between on or about January 16, 2006 and on or about August 10, 2006, Eastways caused, aided, and abetted acts prohibited by the Regulations. Specifically, Eastways, acting as a freight forwarder, arranged for the export of scrap metal designated as EAR99 items³ and subject to the Regulations, from the United States to Allied Trading Company, an entity in Pakistan that is listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Eastways' actions caused, aided and abetted the export of the scrap metal without the Department of Commerce licenses required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Eastways committed three violations of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Eastways 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, Eastways shall be assessed a civil penalty in the amount of \$70,000. Eastways shall pay \$10,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Thereafter, Eastways shall pay \$10,000 to the U.S. Department of Commerce not later than November 2, 2009; \$10,000 not later than December 1, 2009; \$10,000 not later than January 4, 2010; \$10,000 not later than February 1, 2010; and \$10,000 not later than March 1, 2010. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$10,000 shall be suspended for a period of one (1) year from the date of entry of the Order, and thereafter shall be waived, provided that during the period of suspension, Eastways

³ 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) (2006).

has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$60,000 as set forth above.

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, Eastways 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 Eastways. Accordingly, if Eastways should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of Eastways's export privileges under the Regulations for a period of one year from the date 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.



Kevin Delli-Colli
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 20th day of August, 2009.

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

In the Matter of:)
)
Eastways Shipping Corporation)
32 Broadway, Rm. 1809)
New York, NY 10004)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Eastways Shipping Corporation (“Eastways”) 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”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

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

WHEREAS, BIS has issued a Proposed Charging Letter to Eastways that alleged that Eastways committed three violations of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

**Charges 1-3 15 C.F.R. § 764.2(b): Aiding and Abetting an Act Prohibited
by the Regulations**

On three occasions between on or about January 16, 2006 and on or about August 10, 2006, Eastways caused, aided, and abetted acts prohibited by the Regulations. Specifically, Eastways, acting as a freight forwarder, arranged for the export of scrap metal designated as EAR99 items³ and subject to the Regulations, from the United States to Allied Trading Company, an entity in Pakistan that is listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Eastways' actions caused, aided and abetted the export of the scrap metal without the Department of Commerce licenses required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Eastways committed three violations of Section 764.2(b) of the Regulations.

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

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

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

WHEREAS, Eastways wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

³ 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) (2006).

WHEREAS, Eastways 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 Eastways, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against Eastways in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. Eastways shall be assessed a civil penalty in the amount of \$70,000. Eastways shall pay \$10,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Thereafter, Eastways shall pay \$10,000 to the U.S. Department of Commerce not later than November 2, 2009; \$10,000 not later than December 1, 2009; \$10,000 not later than January 4, 2010; \$10,000 not later than February 1, 2010; and \$10,000 not later than March 1, 2010.

Payment shall be made in the manner specified in the attached instructions.

Payment of the remaining \$10,000 shall be suspended for a period of one (1) year from the date of entry of the Order, and thereafter shall be waived, provided that during the period of suspension, Eastways has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$60,000 as set forth above.

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 Eastways.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Eastways'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, Eastways 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. BIS agrees that, upon issuance of the Order, it will not initiate any further administrative proceeding against Eastways in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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 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.

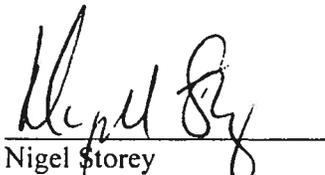
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. 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


Thomas Madigan
Director
Office of Export Enforcement

Date: August 20, 2009


Nigel Storey
President
Eastways Shipping Corporation

Date: 8/18, 2009

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Eastways Shipping Corporation
32 Broadway, Rm. 1809
New York, NY 10004

Attn: *Nigel Storey*
President

Dear Mr. Storey:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Eastways Shipping Corporation (“Eastways”), of New York, New York, has committed three violations 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 Eastways committed the following violations:

Charges 1-3 15 C.F.R. § 764.2(b): Aiding and Abetting an Act Prohibited by the Regulations

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on three occasions between on or about January 16, 2006 and on or about August 10, 2006, Eastways caused, aided, and abetted acts prohibited by the Regulations. Specifically, Eastways, acting as a freight forwarder, arranged for the export of scrap metal designated as EAR99 items³ and subject to the Regulations, from the United States to Allied Trading Company, an entity in Pakistan that is listed on BIS’s Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Eastways’ actions caused, aided and abetted the export of the scrap metal without the Department of Commerce licenses required pursuant to Section 744.1

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1707).

³ 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) (2006).

and Supplement No. 4 to Part 744 of the Regulations. In so doing, Eastways committed three violations of Section 764.2(b) of the Regulations.

* * * * *

Accordingly, Eastways 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 the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Eastways 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 (2009). If Eastways defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Eastways. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Eastways 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 (2009). Eastways 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 (2009).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2009). Should Eastways have a proposal to settle this case, Eastways or its representative should transmit it to the attorney representing BIS named below.

Eastways is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Eastways 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, Eastways'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

³ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Baltimore, Maryland 21202-4022

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

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

Elias Wolfberg is the attorneys representing BIS in this case; any communications that Eastways may wish to have concerning this matter should occur through him. Mr. Wolfberg may be contacted by telephone at (202) 482-5301.

Thomas Madigan
Director
Office of Export Enforcement

**Eastways Shipping Corporation
Proposed Charging Letter
Schedule of Violations**

Charge Number	Date of Export	Description of Commodity	Total Value	ECCN	Destination	Violation
1	1/16/2006	Scrap Metal	\$15,817	EAR99	Allied Trading Co., Karachi, Pakistan	15 C.F.R. § 764.2(b)
2	5/12/2006	Scrap Metal	\$39,458	EAR99	Allied Trading Co., Karachi, Pakistan	15 C.F.R. § 764.2(b)
3	8/10/2006	Scrap Metal	\$40,060	EAR99	Allied Trading Co., Karachi, Pakistan	15 C.F.R. § 764.2(b)