

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

In the Matter of:)
)
Mohamad M. Elkateb)
29256 Marilyn Dr.)
Canyon Country, CA 91387)
)
Respondent)

ORDER RELATING TO MOHAMAD M. ELKATEB

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Mohamad M. Elkateb (“Elkateb”) of its intention to initiate an administrative proceeding against Elkateb 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 issuance of a Proposed Charging Letter to Elkateb that alleged that he committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about July 9, 2004, and continuing through on or about August 16, 2004, Elkateb conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constituted a violation of the Regulations. The

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violation 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 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 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 13, 2009 (74 Fed. Reg. 41325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 et seq.).

purpose of the conspiracy was to cause the export of U.S.-origin lab equipment from the United States to Syria, via Indonesia, without the required U.S. Government authorization. Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, authorization was required from BIS before the lab equipment, items subject to the Regulations,¹ could be exported from the United States to Syria. In furtherance of the conspiracy, Elkateb and his co-conspirators devised and employed a scheme to purchase U.S.-origin lab equipment for a customer in Syria from a foreign distributor of the U.S. manufacturer. This scheme was developed after Elkateb was informed by the U.S. manufacturer that there were restrictions on exporting to Syria. By engaging in this activity, Elkateb committed one violation of Section 764.2(d) of the Regulations.

WHEREAS, BIS and Elkateb 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 for a period of one year from the date of issuance of the Order, Mohamad M. Elkateb, 29256 Marilyn Dr., Canyon Country, CA 91387, and when acting on behalf of Elkateb, his representatives, assigns, or agents (“Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

¹ 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).

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations and that has been, will be, or is intended to be exported or reexported from the United States:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Elkateb by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

FIFTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 26 day of February 2010.

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

In the Matter of:)
)
Mohamad M. Elkateb)
29256 Marilyn Dr.)
Canyon Country, CA 91387)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Mohamad M. Elkateb (“Elkateb”) 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 initiated an administrative proceeding against Elkateb, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Elkateb that alleged that Elkateb committed one violation 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 violation 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 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 and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 13, 2009 (74 Fed. Reg. 41325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about July 9, 2004, and continuing through on or about August 16, 2004, Elkateb conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constituted a violation of the Regulations. The purpose of the conspiracy was to cause the export of U.S.-origin lab equipment from the United States to Syria, via Indonesia, without the required U.S. Government authorization. Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, authorization was required from BIS before the lab equipment, items subject to the Regulations,¹ could be exported from the United States to Syria. In furtherance of the conspiracy, Elkateb and his co-conspirators devised and employed a scheme to purchase U.S.-origin lab equipment for a customer in Syria from a foreign distributor of the U.S. manufacturer. This scheme was developed after Elkateb was informed by the U.S. manufacturer that there were restrictions on exporting to Syria. By engaging in this activity, Elkateb committed one violation of Section 764.2(d) of the Regulations.

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

WHEREAS, Elkateb 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, Elkateb enters into this Agreement voluntarily and with full knowledge of his rights;

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

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

¹ 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).

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

WHEREAS, Elkateb 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 Elkateb, under the Regulations, in connection with the matters alleged in the proposed charging letter.

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

a. For a period of one year from the date of issuance of the Order, Elkateb, and when acting on behalf of Elkateb, his representatives, assigns, or agents (“Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document;
- ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any

way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

- iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Elkateb 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; and (b) 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 Elkateb 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

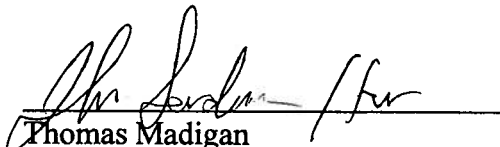
bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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.

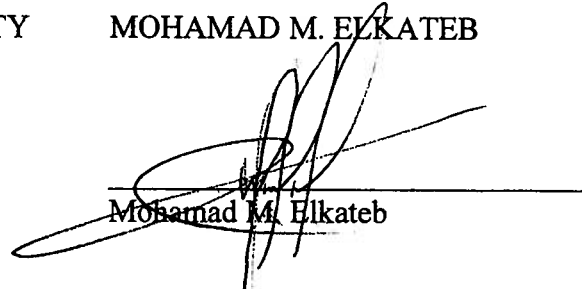
8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

MOHAMAD M. ELKATEB


Mohamad M. Elkateb

Date: 2/17/10

Date: 1-22-10

DRAFT

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mohamad M. Elkateb
29256 Marilyn Dr.
Canyon Country, CA 91387

Dear Mr. Elkateb:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Mohamad M. Elkateb (“Elkateb”), in your individual capacity, have 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 Elkateb committed the following violation:

Charge 1 15 C.F.R. §764.2(d) – Conspiracy

Between on or about July 9, 2004, and continuing through on or about August 16, 2004, Elkateb conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constituted a violation of the Regulations. The purpose of the conspiracy was to cause the export of U.S.-origin lab equipment from the United States to Syria, via Indonesia, without the required U.S. Government authorization. Pursuant to General Order No. 2 of May 14, 2004, set forth in Supplement No. 1 to Part 736 of the Regulations, authorization was required from BIS before the lab equipment, items subject to the Regulations,³ could be exported from the United States to Syria. In furtherance of the conspiracy, Elkateb and his co-conspirators devised and employed a scheme to purchase U.S.-origin lab equipment for a customer in Syria from a foreign distributor of the U.S. manufacturer. This scheme was developed after Elkateb was informed by the U.S. manufacturer that there were restrictions on exporting to Syria. By engaging in this activity, Elkateb committed one violation of Section 764.2(d) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The alleged violation occurred in 2004. The Regulations governing the alleged violation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). 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 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 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. §§ 1701-1706 (2000) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

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) (2003-2004).

* * * * *

Accordingly, Elkateb is hereby notified that an administrative proceeding is instituted against Elkateb 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;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Elkateb 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 (2009). Elkateb 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 (2009).

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

Elkateb is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Elkateb 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, Elkateb'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 Elkateb's answer must be served on BIS at the following address:

⁴ See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Mohamad M. Elkateb
Proposed Charging Letter
Page 3 of 3

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement