

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

In the Matter of:)
)
Edco, Inc.)
14508 Ovenell Road)
Mount Vernon, WA 98273)
)
Respondent)

ORDER RELATING TO EDCO INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Edco Inc. (“Edco”) of its intention to initiate an administrative proceeding against Edco 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 Edco that alleged that Edco committed one violation of the Regulations. Specifically, this charge is:

Charge 1 15 C.F.R. § 764.2(h): Evasion

Between on or about March 8, 2005 and on or about July 20, 2005, Edco took actions with the intent to evade the Regulations. Specifically, Edco entered into a commission agreement to pay Sunford Trading Limited (“Sunford”) a commission in exchange for Sunford’s services as a broker for the sale and export of a Chamfer saw system, an item subject to the Regulations and

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2010). The charged violation occurred in 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2010 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et. seq.*).

designated under the Regulations as EAR99,³ from the United States to the People's Republic of China ("China"). At the time that the commission agreement was signed, Sunford had been denied export privileges under the Regulations by a Temporary Denial Order ("TDO") issued under Section 766.24 of the Regulations, dated March 8, 2005, and published in the Federal Register on March 14, 2005 (70 Fed. Reg. 12,442). The TDO was effective for 180 days and was in force at the time that the commission agreement was signed. Nonetheless, Edco took actions including, but not limited to, omitting Sunford's name from the sales contract and shipping documents at the direction of Sunford, which had informed Edco that including Sunford's name might attract government scrutiny. On November 20, 2005, Edco then exported the Chamfer saw system. In so doing, Edco committed one violation of Section 764.2(h) of the Regulations.

WHEREAS, BIS and Edco 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, Edco shall be assessed a civil penalty in the amount of \$52,000. Edco shall pay \$26,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$26,000 shall be suspended for a period of one (1) year from the date of issuance of the Order, and thereafter shall be waived, provided that during the period of suspension, Edco has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$26,000 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,

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) (2010).

Edco 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 Edco. Accordingly, if Edco should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of Edco'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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 30 day of September, 2010.

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

In the Matter of:)
)
Edco, Inc.)
14508 Ovenell Road)
Mount Vernon, WA 98273)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Edco Inc. (“Edco”) 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 Edco 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 Edco that alleged that Edco committed one violation of the Export Administration Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2010). The charged violation occurred in 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2010 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et. seq.*).

Charge 1 15 C.F.R. § 764.2(h): Evasion

Between on or about March 8, 2005 and on or about July 20, 2005, Edco took actions with the intent to evade the Regulations. Specifically, Edco entered into a commission agreement to pay Sunford Trading Limited (“Sunford”) a commission in exchange for Sunford’s services as a broker for the sale and export of a Chamfer saw system, an item subject to the Regulations and designated under the Regulations as EAR99,³ from the United States to the People’s Republic of China (“China”). At the time that the commission agreement was signed, Sunford had been denied export privileges under the Regulations by a Temporary Denial Order (“TDO”) issued under Section 766.24 of the Regulations, dated March 8, 2005, and published in the Federal Register on March 14, 2005 (70 Fed. Reg. 12,442). The TDO was effective for 180 days and was in force at the time that the commission agreement was signed. Nonetheless, Edco took actions including, but not limited to, omitting Sunford’s name from the sales contract and shipping documents at the direction of Sunford, which had informed Edco that including Sunford’s name might attract government scrutiny. On November 20, 2005, Edco then exported the Chamfer saw system. In so doing, Edco committed one violation of Section 764.2(h) of the Regulations.

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

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

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

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) (2010).

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

WHEREAS, Edco agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction under the Regulations in connection with the matters alleged in the Proposed Charging Letter.

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

a. Edco shall be assessed a civil penalty in the amount of \$52,000.

Edco shall pay \$26,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$26,000 shall be suspended for a period of one (1) year from the date of issuance of the Order, and thereafter shall be waived, provided that during the period of suspension, Edco has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$26,000 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 Edco. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Edco'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, Edco 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. Upon issuance of the Order, BIS will not initiate any further administrative proceedings against Edco 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 it respective party to the terms and conditions set forth herein.

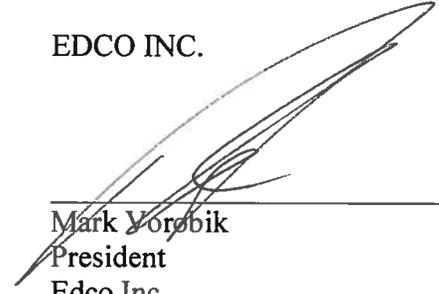
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



John Sonderman
Acting Director
Office of Export Enforcement

Date: 9/30/10

EDCO INC.



Mark Yorbik
President
Edco Inc.

Date: 9/23/10

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Edco, Inc.
14508 Ovenell Road
Mount Vernon, WA 98273

Attention: *Mr. Mark Vorobik*
President

Dear Mr. Vorobik:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that Edco, Inc. (“Edco”), of Mount Vernon, Washington, 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 Edco committed the following violation:

Charge 1 15 C.F.R. § 764.2(h): Evasion

Between on or about March 8, 2005 and on or about July 20, 2005, Edco took actions with the intent to evade the Regulations. Specifically, Edco entered into a commission agreement to pay Sunford Trading Limited (“Sunford”) a commission in exchange for Sunford’s services as a broker for the sale and export of a Chamfer saw system, an item subject to the Regulations and designated under the Regulations as EAR99,³ from the United States to the People’s Republic of China (“China”). At the time that the commission agreement was signed, Sunford had been denied export privileges under the Regulations by a Temporary Denial Order (“TDO”) issued under Section 766.24 of the Regulations, dated March 8, 2005, and published in the Federal Register on March 14, 2005 (70 Fed. Reg. 12,442). The TDO was effective for 180 days and was in force at the time that the commission agreement was signed. Nonetheless, Edco took actions including, but not limited to, omitting Sunford’s name from the sales contract and shipping documents at the direction of Sunford, which had informed Edco that including Sunford’s name might attract government scrutiny. On November 20, 2005, Edco then exported the Chamfer saw

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2010). The violation charged occurred in 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2010 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 13,222 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq. (2000)). 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) (2010).

system. In so doing, Edco committed one violation of Section 764.2(h) of the Regulations.

Accordingly, Edco 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 \$250,000 per violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Edco 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 (2010). If Edco defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Edco. 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.

Edco 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 (2010). Edco is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2010).

Edco is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, it 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 Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2010). Should Edco have a proposal to settle this case, Edco's representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Edco'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

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

Edco, Inc.
Proposed Charging Letter
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Baltimore, Maryland 21202-4022

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

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

Eric Clark is the attorney representing BIS in this case. Any communications that Edco may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301, by fax at (202) 482-0085, or via email at eclark@doc.gov.

Sincerely,

John Sonderman
Acting Director
Office of Export Enforcement