

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Thomas Campbell Butler  
4611 10<sup>th</sup> Street  
Lubbock, TX 79416

Dear Mr. Butler:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has reason to believe that you, Thomas Campbell Butler (“Butler”), have committed four violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the “Act”).<sup>2</sup> Specifically, BIS charges that Butler committed the following violations:

**Charge 1 (15 C.F.R. § 764.2(a) - Engaging in Unauthorized Export to Tanzania.)**

On or around September 9, 2002, Butler engaged in conduct prohibited by the Regulations when he exported the human pathogen *Yersinia pestis* (also known as the Plague) to Tanzania without the required U.S. Department of Commerce license. *Yersinia pestis* is subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 1C351. Section 742.2 of the Regulations requires a Department of Commerce license to be obtained for exports of *Yersinia pestis* to Tanzania. In exporting without the required license, Butler committed one violation of Section 764.2(a) of the Regulations.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. 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 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), continues the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

**Charge 2 (15 C.F.R. § 764.2(e) - Transferring, Forwarding and/or Disposing of Items with Knowledge that a Violation Would Occur.)**

On or around September 9, 2002, Butler transferred, forwarded, and/or disposed of items subject to the Regulations with knowledge that a violation of the Regulations was about to occur in connection with the items. Specifically, Butler transferred, forwarded, and/or disposed of the human pathogen *Yersinia pestis* (Plague) to Tanzania, as described in Charge One, knowing that the item would be exported without the required Department of Commerce license. In so doing, Butler committed one violation of Section 764.2(e) of the Regulations.

**Charge 3 (15 C.F.R. § 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations)**

On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler described the human pathogen *Yersinia pestis* (Plague) as “Laboratory Materials” on the waybill, undervalued the shipment, neglected to fill out the section of the waybill regarding Shipper’s Export Declaration requirements, and signed his name under a statement claiming that the commodities in question were being shipped in accordance with the Regulations. He did this to disguise the fact that the export required a license. In so doing, Butler committed one violation of Section 764.2(h) of the Regulations.

**Charge 4 (15 C.F.R. § 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations)**

On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler failed to file a Shipper’s Export Declaration for the export of the human pathogen *Yersinia pestis* (Plague). He did this to disguise the fact that the export required a license. In so doing, Butler committed one violation of Section 764.2(h) of the Regulations.

Accordingly, Butler is hereby notified that an administrative proceeding is instituted against him 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>

Denial of export privileges; and/or

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<sup>3</sup> See 15 C.F.R. §6.4(a)(4) (2004).

Exclusion from practice before BIS.

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

Butler 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. (Regulations, Section 766.6). Butler is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Butler have a proposal to settle this case, he or his representative should transmit the offer 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, Butler'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 Butler's answer must be served on BIS at the following address:

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

Thomas Campbell Butler.  
Proposed Charging Letter  
Page 4

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

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement

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

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In the Matter of: )  
 )  
Thomas Campbell Butler )  
4611 10<sup>th</sup> Street )  
Lubbock, TX 79416 )  
 )  
Respondent. )  
\_\_\_\_\_ )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Thomas Campbell Butler (“Butler”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to § 766.18(a) of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2006)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (“Act”),<sup>2</sup>

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

<sup>1</sup> The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2006 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 CFR, 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 3, 2006 (71 FR 44551 (August 7, 2006)), 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 Butler that alleged that Butler committed four violations of the Regulations, specifically:

1. *One violation of 15 CFR 764.2(a) - Engaging in Unauthorized Export to Tanzania:* On or around September 9, 2002, Butler engaged in conduct prohibited by the Regulations when he exported the human pathogen *Yersinia pestis* (also known as the Plague) to Tanzania without the required U.S. Department of Commerce license. *Yersinia pestis* is subject to the Regulations and classified under Export Control Classification Number ("ECCN") 1C351. Section 742.2 of the Regulations requires a Department of Commerce license to be obtained for exports of *Yersinia pestis* to Tanzania.
2. *One violation of 15 CFR 764.2(e) - Transferring, Forwarding and/or Disposing of Items with Knowledge that a Violation Would Occur:* On or around September 9, 2002, Butler transferred, forwarded, and/or disposed of items subject to the Regulations with knowledge that a violation of the Regulations was about to occur in connection with the items. Specifically, Butler transferred, forwarded, and/or disposed of the human pathogen *Yersinia pestis* (Plague) to Tanzania, as described in Charge One, knowing that the item would be exported without the required Department of Commerce license.
3. *One violation of 15 CFR 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler

took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler described the human pathogen *Yersinia pestis* (Plague) as "Laboratory Materials" on the waybill, undervalued the shipment, neglected to fill out the section of the waybill regarding Shipper's Export Declaration requirements, and signed his name under a statement claiming that the commodities in question were being shipped in accordance with the Regulations. He did this to disguise the fact that the export required a license.

4. *One violation of 15 CFR 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler failed to file a Shipper's Export Declaration for the export of the human pathogen *Yersinia pestis* (Plague). He did this to disguise the fact that the export required a license.

WHEREAS, Butler 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, Butler 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;

result in the denial of all Butler's export privileges under the Regulations for a period of one year from the date of imposition of the penalty.

- c. For a period of 10 years from the date of entry of the Order, Butler and, when acting on his behalf, his representatives, agents, or employees ("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, Butler 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; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 CFR 764.3(a)(2); and (d) 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 \$37,400 civil penalty, BIS will not initiate any further administrative proceeding against Butler 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 § 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 BIS 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

THOMAS CAMPBELL BUTLER

  
\_\_\_\_\_  
Michael D. Turner  
Director  
Office of Export Enforcement

  
\_\_\_\_\_  
Thomas Campbell Butler

Date: 08/23/2006

Date: Aug 13, 2006

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

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In the Matter of: )  
 )  
Thomas Campbell Butler )  
4611 10<sup>th</sup> Street )  
Lubbock, TX 79416 )  
 )  
Respondent. )  

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ORDER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Thomas Campbell Butler (“Butler”) of its intention to initiate an administrative proceeding against Butler pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2006)) (“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)) (“Act”),<sup>2</sup> by issuing a proposed charging letter to Butler that alleged that Butler committed four violations of the Regulations. Specifically, the charges are:

1. *One violation of 15 CFR 764.2(a) - Engaging in Unauthorized Export to Tanzania:* On or around September 9, 2002, Butler engaged in conduct prohibited

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<sup>1</sup> The violations charged occurred in 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 CFR. Parts 730-774 (2002)). The 2006 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 CFR, 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 - 1706 (2000)) (“IEEPA”).

by the Regulations when he exported the human pathogen *Yersinia pestis* (also known as the Plague) to Tanzania without the required U.S. Department of Commerce license. *Yersinia pestis* is subject to the Regulations and classified under Export Control Classification Number ("ECCN") 1C351. Section 742.2 of the Regulations requires a Department of Commerce license to be obtained for exports of *Yersinia pestis* to Tanzania.

2. *One violation of 15 CFR 764.2(e) - Transferring, Forwarding and/or Disposing of Items with Knowledge that a Violation Would Occur:* On or around September 9, 2002, Butler transferred, forwarded, and/or disposed of items subject to the Regulations with knowledge that a violation of the Regulations was about to occur in connection with the items. Specifically, Butler transferred, forwarded, and/or disposed of the human pathogen *Yersinia pestis* (Plague) to Tanzania, as described in Charge One, knowing that the item would be exported without the required Department of Commerce license.
3. *One violation of 15 CFR 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler described the human pathogen *Yersinia pestis* (Plague) as "Laboratory Materials" on the waybill, undervalued the shipment, neglected to fill out the section of the waybill regarding Shipper's Export Declaration requirements, and signed his name under a statement claiming that the commodities in question were being shipped in

accordance with the Regulations. He did this to disguise the fact that the export required a license.

4. *One violation of 15 CFR 764.2(h) - Taking an Action with Intent to Evade the Provisions of the Act or Regulations:* On or around September 9, 2002, Butler took action with intent to evade the provisions of the Regulations in connection with the export described in Charge One above. Specifically, Butler failed to file a Shipper's Export Declaration for the export of the human pathogen *Yersinia pestis* (Plague). He did this to disguise the fact that the export required a license.

WHEREAS, BIS and Butler 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 the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$37,400 is assessed against Butler, which shall be paid to the U.S. Department of Commerce no later than 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, Butler 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 Butler. Accordingly, if Butler should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Butler's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, that for a period of 10 years from the date of entry of this Order, Thomas Campbell Butler, 4611 10<sup>th</sup> Street, Lubbock, Texas 79416, and, when acting on his behalf, his representatives, agents, or employees ("Denied Person") may not, directly or indirectly, participate 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;
- 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.

FIFTH, that no person may, directly or indirectly, do any of the following:

- 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.

SIXTH, 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 Butler by

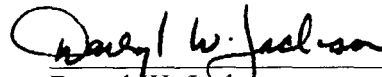
affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

SEVENTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

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

NINTH, 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.



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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 1<sup>ST</sup> day of September 2006.