

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

\_\_\_\_\_  
In the Matter of: )  
 )  
David H. McCauley )  
119 Edgewood Avenue )  
Ronkonkoma, NY 11779 )  
 )  
 )  
\_\_\_\_\_  
Respondent )

ORDER RELATING TO DAVID H. MCCAULEY

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified David H. McCauley (“McCauley”), of its intention to initiate an administrative proceeding against McCauley pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (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 McCauley that alleged that McCauley committed one violation of the Regulations. Specifically, this charge is:

<sup>1</sup> The violation alleged to have been committed occurred in 2001 - 2003. The Regulations governing the violations at issue are found in the 2001 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

**Charge 1      15 C.F.R. §764.2(d) - Conspiring to Act in Concert with Other  
Persons to Do an Act that Constitutes a Violation of the Regulations**

From in or about September 2001 and continuing through in or about March 2003, McCauley conspired or acted in concert with others, known and unknown, to bring about an act that violates the Regulations. The purpose of the conspiracy was to export dental equipment, items subject to the Regulations, from the United States to Iran without prior U.S. government authorization. In furtherance of the conspiracy, the co-conspirators, including McCauley, participated in a scheme in which McCauley's employer would be contacted by a co-conspirator in Iran and to arrange for the sale and export of dental equipment to Iran through the United Arab Emirates (U.A.E.). With the knowledge of McCauley, the co-conspirator would then direct the items to be shipped from the U.A.E. to Iran without the required U.S. government authorization. In so doing, McCauley committed one violation of Section 764.2(d) of the Regulations.

WHEREAS, BIS and McCauley 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 \$6,380 is assessed against McCauley, 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, McCauley 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.

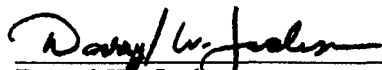
THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license,

license exception, permission, or privilege granted, or to be granted, to McCauley.

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



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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 28<sup>th</sup> day of June, 2007.

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

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119 Edgewood Avenue )  
Ronkonkoma, NY 11779 )  
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Respondent )  
\_\_\_\_\_

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between David H. McCauley, in his individual capacity (referred to hereinafter as “McCauley”) 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 (2006)) (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>

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<sup>1</sup> The violation alleged to have been committed occurred in 2001 - 2003. The Regulations governing the violation at issue are found in the 2001 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). 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 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”).

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

WHEREAS, BIS has issued a proposed charging letter to McCauley that alleged that McCauley committed one violation of the Regulations, specifically:

**Charge 1      15 C.F.R. §764.2(d) - Conspiring to Act in Concert with Other Persons to Do an Act that Constitutes a Violation of the Regulations**

From in or about September 2001 and continuing through in or about March 2003, McCauley conspired or acted in concert with others, known and unknown, to bring about an act that violates the Regulations. The purpose of the conspiracy was to export dental equipment, items subject to the Regulations, from the United States to Iran without prior U.S. government authorization. In furtherance of the conspiracy, the co-conspirators, including McCauley, participated in a scheme in which McCauley's employer would be contacted by a co-conspirator in Iran and to arrange for the sale and export of dental equipment to Iran through the United Arab Emirates (U.A.E.). With the knowledge of McCauley, the co-conspirator would then direct the items to be shipped from the U.A.E. to Iran without the required U.S. government authorization. In so doing, McCauley committed one violation of Section 764.2(d) of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over McCauley, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against McCauley in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
  - a. McCauley shall be assessed a civil penalty in the amount of \$6,380, all of 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 McCauley. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of McCauley'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, McCauley 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 \$6,380 civil penalty, BIS will not initiate any further administrative proceeding against McCauley 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.

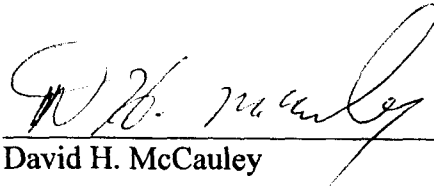
BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

DAVID H. MCCAULEY



John McKenna  
Acting Director  
Office of Export Enforcement

Date: 4/25/07



David H. McCauley

Date: 4/27/07



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

David H. McCauley  
119 Edgewood Avenue  
Ronkonkoma, NY 11779

Dear Mr. McCauley:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that you, David H. McCauley (McCauley), former Export Administration Manager at Henry Schein, Inc., in your individual capacity, have committed one violation 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 McCauley committed the following violation:

**Charge 1      15 C.F.R. §764.2(d) - Conspiring to Act in Concert with Other Persons to Do an Act that Constitutes a Violation of the Regulations**

From in or about September 2001 and continuing through in or about March 2003, McCauley conspired or acted in concert with others, known and unknown, to bring about an act that violates the Regulations. The purpose of the conspiracy was to export dental equipment, items subject to the Regulations, from the United States to Iran without prior U.S. government authorization. In furtherance of the conspiracy, the co-conspirators, including McCauley, participated in a scheme in which McCauley’s employer would be contacted by a co-conspirator in Iran and to arrange for the sale and export of dental equipment to Iran through the United Arab Emirates (U.A.E.). With the knowledge of McCauley, the co-conspirator would then direct the items to be shipped from the U.A.E. to Iran without the required U.S. government authorization. In so doing, McCauley committed one violation of Section 764.2(d) 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 (2006). The violations charged occurred in 2001-2003. The Regulations governing the violations at issue are found in the 2001-2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2003)). The 2006 Regulations govern the procedural aspects of this case.

<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)), as extended most recently by the Notice of August 2, 2006, (71 Fed. Reg. 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”).

Accordingly, McCauley 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 up to \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

McCauley 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). McCauley 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 McCauley have a proposal to settle this case, McCauley or his 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, McCauley'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

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(2) (2001-2003).

David H. McCauley  
Proposed Charging Letter  
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In addition, a copy of McCauley's answer must be served on BIS at the following address:

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

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

Sincerely,

Michael Turner  
Director  
Office of Export Enforcement