

JUN 22 2004



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**  
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Yaudat Mustafa Talyi  
a.k.a. Yaudat Mustafa  
a.k.a. Joseph Talyi  
41 Chamale Cove East  
Slidell, Louisiana 70460

Dear Mr. Talyi:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that you, Yaudat Mustafa Talyi, of Slidell, Louisiana ("Talyi"), have committed 11 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 Talyi committed the following violations:

**Charge 1                    15 C.F.R. § 764.2(a) - Exporting Items to Libya Without the Required Authorization**

On or about May 29, 2001, Talyi exported oil field parts, items subject to both the Regulations (EAR99)<sup>3</sup> and the Libyan Sanctions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC"), to Libya without obtaining authorization from OFAC as required by Section 746.4 of the Regulations. In doing so, Talyi 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 charged violations occurred from 2001 to 2002. The Regulations governing the violations at issue are found in the 2001 to 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). 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 7, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), continues the Regulations in effect under the IEEPA.

<sup>3</sup> The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).



**Charge 2                    15 C.F.R. § 764.2(e) - Ordering Items With Knowledge That a Violation of the Regulations Would Occur**

On or about May 29, 2001, Talyi ordered the items referred to in Charge One above from original equipment manufacturers located in the United States with knowledge that a violation of the Regulations would occur. Specifically, Talyi ordered the items knowing they would be exported to an end-user in Libya and with knowledge that authorization from OFAC was required but would not be obtained. In so doing, Talyi committed one violation of Section 764.2(e) of the Regulations.

**Charge 3                    15 C.F.R. § 764.2(c) - Soliciting a Violation of the Regulations**

Between on or about March 14, 2002 and on or about March 26, 2002, Talyi solicited a violation of the Regulations by ordering oil field parts, items subject to both the Regulations (EAR99) and OFAC's Libyan Sanctions Regulations, from an original equipment manufacturer located in the United States, for export to an end-user in Libya without the required OFAC authorization. In so doing, Talyi committed one violation of Section 764.2(c) of the Regulations.

**Charge 4                    15 C.F.R. § 764.2(e) - Ordering Items With Knowledge That a Violation Would Occur**

Between on or about March 14, 2002 and on or about March 26, 2002, Talyi ordered the oil field parts referred to in Charge Three above, with knowledge that the items would be exported to an end-user in Libya and that authorization from OFAC was required but would not be obtained. In so doing, Talyi committed one violation of Section 764.2(e) of the Regulations.

**Charge 5                    15 C.F.R. § 764.2(k) - Participating in an Export or Attempted Export of Items Subject to the Regulations Prohibited by an Order Issued Thereunder**

On or about October 22, 2002, Talyi participated in a transaction concerning items subject to the Regulations (EAR99) that were to be exported from the United States in violation of a BIS order temporarily denying his export privileges. Specifically, on October 22, 2002, Talyi sent an e-mail to an oil field equipment broker located in the United States that directed the broker to obtain a price quotation for oil field parts that were to be exported from the United States to the United Arab Emirates. Talyi's participation in this export transaction was contrary to the terms and conditions of a September 30, 2002 BIS Order Temporarily Denying Export Privileges. In doing so, Talyi committed one violation of Section 764.2(k) of the Regulations.

**Charge 6                    15 C.F.R. § 764.2(k) - Participating in an Export or Attempted Export of Items Subject to the Regulations Prohibited by an Order Issued Thereunder**

On or about November 11, 2002, Talyi participated in a transaction concerning items subject to the Regulations (EAR99) that were to be exported from the United States in violation of the BIS order temporarily denying his export privileges. Specifically, on November 11, 2002, Talyi sent an e-mail to the oil field equipment broker referenced in Charge Five above that directed the broker to obtain a price quotation for oil field parts that were to be exported from the United States to the United Arab Emirates. Talyi's participation in this export transaction was contrary to the terms and conditions of a September 30, 2002 BIS Order Temporarily Denying Export Privileges. In doing so, Talyi committed one violation of Section 764.2(k) of the Regulations.

**Charge 7                    15 C.F.R. § 764.2(k) - Participating in an Attempted Export of Items Subject to the Regulations Prohibited by an Order Issued Thereunder**

Between in or about October 2002 and in or about November 20, 2002, Talyi participated in a transaction concerning items subject to the Regulations (EAR99) that were to be exported from the United States in violation of the order temporarily denying his export privileges. Specifically, Talyi arranged for the attempted export of items subject to the EAR from the United States to the United Arab Emirates from a grocery store in Slidell, Louisiana. Talyi's participation in this export transaction was contrary to the terms and conditions of a September 30, 2002 BIS Order Temporarily Denying Export Privileges. In doing so, Talyi committed one violation of Section 764.2(k) of the Regulations.

**Charge 8                    15 C.F.R. § 764.2(k) - Participating in an Attempted Export of Items Subject to the Regulations Prohibited by an Order Issued Thereunder**

On or about December 13, 2002, Talyi participated in a transaction concerning items subject to the Regulations (EAR99) that were to be exported from the United States in violation of the order temporarily denying his export privileges. Specifically, on or about December 13, 2002, Talyi sent an e-mail to the oil field equipment broker referenced in Charge Five above that included an attachment describing technical information about oil field parts to be exported from the United States to the United Arab Emirates. In the e-mail, Talyi asked the broker if he would like to handle the file and directed the broker to clarify parts specifications as per comments provided by the end-user in the United Arab Emirates. Talyi's participation in this export transaction was contrary to the terms and conditions of a September 30, 2002 BIS Order Temporarily Denying Export Privileges. In doing so, Talyi violated Section 764.2(k) of the Regulations.

**Charges 9-11            15 C.F.R. § 764.2(e) - Ordering Items Subject to the Regulations With Knowledge That a Violation Would Occur**

On three occasions between in or about October 2002, and on or about November 20, 2002, Talyi ordered the items referred to in Charges Five through Seven above that Talyi knew would be exported from the United States in violation of the terms and conditions of a September 30, 2002 BIS Order Temporarily Denying Export Privileges. In so doing, Talyi committed three violations of Section 764.2(e).

Accordingly, Talyi is hereby notified that an administrative proceeding is instituted against him pursuant to 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>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Talyi is further notified that he is entitled to an agency hearing on the record if Talyi files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Talyi 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.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Talyi have a proposal to settle this case, he 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, Talyi's answer must be filed in accordance with the instructions set forth 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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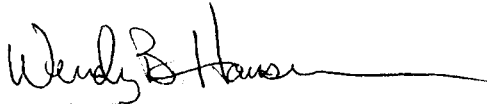
<sup>4</sup> *See* 15 C.F.R. § 6.4(a)(2).

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

Chief Counsel for Industry and Security  
Attention: David C. Recker, Esq.  
Room H-3839  
United States Department of Commerce  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

David C. Recker is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

A handwritten signature in black ink that reads "Wendy B. Hauser". The signature is written in a cursive style with a long horizontal line extending to the right.

Wendy Hauser  
Acting Director  
Office of Export Enforcement

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

\_\_\_\_\_  
In the Matter of: )  
 )  
YAUDAT MUSTAFA TALYI )  
a.k.a. YAUDAT MUSTAFA )  
a.k.a. JOSEPH TALYI )  
41 Chamale Cove East )  
Sidell, Louisiana 70460 )  
 )  
and )  
 )  
Oakdale FDC )  
Federal Bureau of Prisons )  
P.O. Box 5060 )  
Oakdale, Louisiana 71463 )  
 )  
Respondent. )  
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Docket No. 03-BIS-13

DECISION AND ORDER ON MOTION FOR DEFAULT ORDER

On June 22, 2004, the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) issued a charging letter initiating this administrative enforcement proceeding against Respondent, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi (“Talyi”). The charging letter alleged that Talyi committed eleven (11) violations of the Export Administration Regulations (currently codified at 15 CFR Parts 730-774 (2004)) (the “Regulations”),<sup>1</sup> issued under the Export Administration Act of 1979, as amended (50 U.S.C. App. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup> relating to his

<sup>1</sup> The charged violations occurred from 2001 to 2002. The Regulations governing the violations at issue are found in the 2001 to 2002 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2001-2002)). The 2004 Regulations establish the procedures that apply to this matter.  
<sup>2</sup> 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 CFR 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

export activities concerning items exported or to be exported from the United States to Libya in violations of U.S. export control laws and to the United Arab Emirates in violation of a temporary denial order (“initial TDO”) issued by BIS on September 30, 2002. See Exhibit 1, BIS Initial TDO, dated September 30, 2002 (67 Fed. Reg. 62225 (October 4, 2002)).

## I. PROCEDURAL BACKGROUND

The procedural background in this matter consists of three interrelated elements concerning Talyi and his unlawful export activities: (i) a BIS temporary denial order (“initial TDO”),<sup>3</sup> (ii) a federal criminal case against Talyi, and (iii) this resulting administrative enforcement proceeding.

### a. BIS Temporary Denial Orders Issued Against Talyi

On September 30, 2002, the Assistant Secretary of Commerce for Export Enforcement (“Assistant Secretary”) issued the initial TDO denying the export privileges of International Business Services, Ltd. (“IBS”), and its owner, Talyi, for one hundred and eighty (180) days based on evidence indicating they were involved in illegal exports of oil field parts to Libya and Sudan. See Exhibit 1, BIS Initial TDO, dated September 30, 2002 (67 Fed. Reg. 62225 (October 2, 2002)).<sup>4</sup> The Assistant Secretary renewed the initial

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On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 1322 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

<sup>3</sup> A temporary denial order may be issued against a person by the Assistant Secretary of Commerce for Export Enforcement for up to 180 days based on a finding that there is sufficient evidence that the order is necessary in the public interest to prevent an imminent violations of the Act, the Regulations, or any order, license or authorization issued there under. See 15 CFR § 766.24.

<sup>4</sup> The initial TDO also named Talyi’s business, Top Oil Tools, as a related person. See id.

TDO against Talyi on four subsequent occasions, each for the maximum period of one hundred and eighty (180) days, based on further evidence demonstrating Talyi had violated the initial TDO. See 68 Fed. Reg. 15982 (April 2, 2003); 68 Fed. Reg. 56261 (September 30, 2003); 69 Fed. Reg. 15291 (March 25, 2004); and 69 Fed. Reg. 57671 (September 27, 2004). The current TDO is set to expire on March 12, 2005.

b. Criminal Case Against Talyi

On January 29, 2004, pursuant to a plea agreement filed in the U.S. District Court for the Eastern District of Louisiana, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in the export and attempted export of items from the United States to the United Arab Emirates that were violations of the initial TDO. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004.

On April 28, 2004, Talyi was sentenced to five months in prison, five months of home confinement, and one year of supervised release for the two felony convictions. See Exhibit 3, Talyi Judgment Commitment Order, dated April 29, 2004. Talyi was also ordered to pay a twenty-five thousand dollar (\$25,000) criminal fine and a two hundred dollar (\$200) special assessment. See id. Talyi has a projected release date from federal prison of December 1, 2004, at which time he will begin his five month term of home confinement.

Talyi's plea agreement stated that Talyi agreed to settle the BIS administrative case by paying a seventy-five thousand dollar (\$75,000) civil



penalty and accepting a ten (10) year denial of export privileges. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004. The plea agreement also states that a copy of the settlement agreement for BIS's administrative case was attached thereto. See id. The settlement agreement incorporated BIS's allegations that Talyi committed eleven (11) violations of the Regulations for his export activities concerning oil field parts to be exported from the United States to Libya without the required U.S. government authorizations and for participating in export transactions in violation of the initial TDO. See Exhibit 4, BIS Settlement Agreement.

c. Administrative Case Against Talyi

On March 2, 2004, about six weeks prior to Talyi's criminal sentencing, BIS sent settlement documents to Talyi's counsel for the administrative case. Those settlement documents contained the agreement that Talyi would pay a seventy-five thousand dollar (\$75,000) civil penalty and receive a ten (10) year denial of his export privileges for the eleven (11) charges contained in the proposed charging letter. However, Talyi refused to sign the settlement agreement and Talyi's counsel ignored repeated attempts by counsel for BIS to discuss the matter throughout the spring of 2004. Specifically, Talyi's counsel did not return any of BIS's calls nor did he respond to any correspondence sent by BIS's counsel concerning this matter. See e.g. Exhibits 5 and 6, BIS Letters to Frank DeSalvo, dated May 25, 2004 and June 16, 2004.

As a result, on June 22, 2004, BIS filed a charging letter thereby initiating this formal administrative proceeding against Talyi. See Exhibit 7, BIS Charging Letter, dated June 22, 2004. As discussed infra, BIS served a copy of this charging letter on Talyi's counsel. See Exhibit 8, U.S. Postal Service, Certified Mail Returned Receipt. On July 9, 2004, after no response from Talyi or his counsel, Talyi's failure to enter into the BIS settlement agreement, and his apparent breach of his plea agreement, BIS withdrew its offer of settlement. See Exhibit 9, Letter to Frank DeSalvo, dated July 9, 2004. To date, Talyi has not entered into a settlement agreement that is consistent with his criminal plea agreement and has been unwilling to engage in constructive settlement negotiations with BIS.<sup>5</sup>

## II. FACTS

### a. Talyi's Illegal Exports to Libya

The BIS charging letter stated that on or about May 29, 2001, Talyi ordered and exported oil field parts from the United States to Libya with knowledge that the required authorization from the U.S. government would not be obtained. See Exhibit 7, BIS Charging Letter, dated June 22, 2004, Charges 1-2. BIS further charged that between, on, or about March 14, 2002, and on or about March 26, 2002, Talyi ordered oil field parts from an original equipment manufacturer located in the United States for export to an end-user

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<sup>5</sup> After BIS filed the charging letter and withdrew its settlement offer, Talyi (through his counsel) made a counter-offer to BIS. However, because this counter-offer was not consistent with the terms of Talyi's plea agreement and the BIS settlement agreement to which Talyi had previously agreed, BIS rejected Talyi's counter-offer.

in Libya with knowledge that the required U.S. government authorization not be obtained. See id., Charges 3-4.

b. Talyi's Participation in Illegal Exports or Attempted Export to the United Arab Emirates.

BIS also charged Talyi with violations concerning his participation in exports or attempted exports to the United Arab Emirates. See Exhibit 7, BIS Charging Letter, dated June 22, 2004. Specifically, BIS charged that on four occasions between, on, or about October 22, 2002, and on or about December 13, 2002, Talyi participated in an export or attempted export of items from the United Arab Emirates in violation of the initial TDO. See id., Charges 9-11.

**III. SERVICE OF THE CHARGING LETTER**

In accordance with Section 766.3(b)(1) of the Regulations, on June 22, 2004, BIS mailed the notice of issuance of a charging letter by registered mail to Talyi's attorney, Frank G. DeSalvo, at his last known address: Frank G. DeSalvo, Esq., 201 South Galvez Street, New Orleans, Louisiana, 70119. See Exhibit 10, U.S. Postal Service Certified mail Receipt, dated June 22, 2004. According to the registered mail receipt, the notice of issuance of a charging letter was received by Mr. DeSalvo's office on June 30, 2004. See Exhibit 8, U.S. Postal Service, Certified Mail Returned Receipt. To date, Talyi has failed to answer or otherwise respond to the charging letter.

Accordingly, because Talyi has not answered or otherwise responded to the charging letter within thirty (30) days from the time he received notice of issuance of the charging letter, as required by Section 766.6 of the Regulations, Talyi has defaulted in this matter.

#### **IV. LEGAL BASIS FOR ISSUING AN ORDER OF DEFAULT**

Section 766.7 of the Regulations states that BIS may file a motion for an Order of Default if a respondent fails to file a timely answer to a charging letter. That section, entitled Default, provides in pertinent part:

Failure of the respondent to file an answer within the time provided constituted a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing sanctions.

15 CFR § 766.7 (2004).

Pursuant to Section 766.6 of the Regulations, a respondent must file an answer to the charging letter "within 30 days after being served with notice of the issuance of the charging letter" initiating the proceeding.

#### **V. SANCTIONS**

Section 764.3 of the Regulations establishes the sanctions that BIS may seek for the violations charged in this proceeding. The applicable sanctions are: (i) a civil penalty; (ii) suspension from practice before the

Department of Commerce; and (iii) a denial of export privileges under the Regulations. See 15 CFR § 764.3 (2004).

BIS requests that I recommend to the Under Secretary of Commerce for Industry and Security (“Under Secretary”)<sup>6</sup> that Talyi’s export privileges under the Regulations be denied for twenty (20) years and that Talyi be ordered to pay a one hundred twenty-one thousand dollar (\$121,000) civil penalty to the Department of Commerce, the maximum civil penalty allowable based on the charges in the charging letter. See Bureau of Industry and Security’s Motion for Default Order, at 7-9. I agree with BIS, in that Talyi has exhibited a severe disregard and contempt for U.S. export control laws. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004; see also Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004. Talyi has deliberately and covertly participated in export transactions of items from the United States to the United Arab Emirates in violation of an initial TDO issued by BIS. See id. Talyi is currently serving a prison term resulting from his felony guilty plea to these violations of the TDO. See Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004. Furthermore, Talyi exported and solicited oil field parts from the United States to Libya, a country against which the United States maintained an economic embargo because of Libya’s support for international terrorism, when Talyi knew the required U.S. government authorization would not be obtained. See Exhibit 7, BIS Charging Letter, dated June 22, 2004.

BIS has also established that Talyi failed to enter into a settlement agreement consistent with that to which Talyi previously agreed in his criminal plea agreement, but has refused to engage in any good faith settlement negotiations with BIS concerning the case. See Exhibit 2, Talyi Plea Agreement, dated January 29, 2004; see also Exhibit 3, Talyi Judgment and Commitment Order, dated April 29, 2004; Exhibits 5 and 6, BIS Letters to Frank DeSalvo, dated May 25, 2004, and June 16, 2004. In light of the above, through his illegal actions Talyi has demonstrated that this is the kind of case for which a lengthy denial order and the maximum civil penalty are necessary because Talyi simply cannot be trusted to comply with U.S. export control laws. See id.

Based on the foregoing, I concur with BIS and recommend that the Under Secretary enter an Order denying Talyi's export privileges for a period of twenty (20) years and assess a twenty-one thousand dollar (\$121,000) civil penalty against Talyi. Such a denial order and civil penalty are consistent with penalties imposed in recent cases under the Regulations involving illegal exports to Iran, a country that is subject to a similar embargo as that which had applied to Libya during the relevant time period. See In the Matter of Jabal Damavand General Trading Company, 67 Fed. Reg. 32009 (May 13, 2002) (affirming the ALJ's recommendations that a ten year denial was appropriate where violations involved shipments of EAR99 items to Iran); In the Matter of Abdulamir Mahdi, 68 Fed. Reg. 57406 (October 3, 2003) (affirming the ALJ's

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<sup>6</sup> Pursuant to Section 13(c)(1) of the Act and Section 766.17(b)(2) of the Regulations, in export control enforcement cases, the ALJ issues a recommended decision and order which is reviewed by the Under

recommendations that a twenty (20) year denial was appropriate where violations involved shipments of oil field equipment to Iran as part of a conspiracy to ship items through Canada to Iran).

The recommended penalties are also consistent with settlements reached in significant BIS cases under the Regulations concerning illegal exports of pipe coating materials to Libya. See In the Matter of Jerry Vernon Ford, 67 Fed. Reg. 7352 (Tuesday, February 19, 2002) (settlement agreement for a twenty-five (25) year denial); and In the Matter of Thane-Coat, Inc., 67 Fed. Reg. 7351 (Tuesday, February 19, 2002) (settlement agreement for a civil penalty of one million, one hundred twenty thousand dollars (\$1,120,000) (five hundred twenty thousand dollars (\$520,000) suspended for two years and a twenty-five (25) year denial).

**[Portions REDACTED]**

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Secretary, who issues the final decision for the agency.

**[Portions REDACTED]**



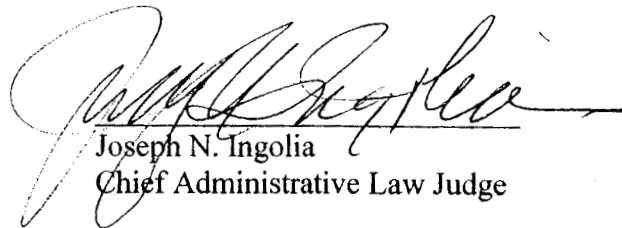
**[Portions REDACTED]**

**[Portions REDACTED]**

[Portions REDACTED]

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary for review and final action for the agency, without further notice to the Respondent, as provided in Section 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 C.F.R. § 766.22(c).



Joseph N. Ingolia  
Chief Administrative Law Judge

Done and dated this 18 of November, at  
Baltimore, MD

UNITED STATES DEPARTMENT OF COMMERCE  
UNDER SECRETARY FOR INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matters of: )  
)  
)

Yaudat Mustafa Talyi )  
a.k.a. Yaudat Mustafa )  
a.k.a. Joseph Talyi )  
41 Chamale Cove East )  
Slidell, Louisiana 70460, )

Respondents )  
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Docket No. 03-BIS-013

DECISION AND ORDER

On June 22, 2004, the Bureau of Industry and Security (“BIS”) issued a charging letter against the respondent, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi (“Talyi”), that alleged 11 violations of the Export Administration Regulations (Regulations),<sup>1</sup> which were issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).<sup>2</sup>

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<sup>1</sup> The violations charged occurred between 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under IEEPA.

Specifically, the charging letter alleged that, on or about May 29, 2001, Talyi exported oil field parts, items subject to both the Regulations and the Libyan Sanctions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC"), to Libya without obtaining authorization from OFAC as required by Section 746.4 of the Regulations. In doing so, Talyi committed one violation of Section 764.2(a) of the Regulations.

The charging letter also alleged that, in March 2002, Talyi solicited a violation of the Regulations by ordering oil field parts, items subject to both the Regulations and the Libyan Sanctions Regulations, from an original equipment manufacturer located in the United States, for export to an end-user in Libya without the required OFAC authorization. In doing so, Talyi committed one violation of Section 764.2(c) of the Regulations.

The charging letter alleged that Talyi ordered the items related to the May 2001 export and the March 2002 solicitation from original equipment manufacturers located in the United States with knowledge that a violation of the Regulations would occur. Specifically, Talyi ordered the items knowing that they would be exported to end-users in Libya and with knowledge that authorization from OFAC was required but would not be obtained. In doing so, Talyi committed two violations of Section 764.2(e) of the Regulations.

Further, the charging letter alleged that, between October 2002 and on or about December 13, 2002, Talyi participated in four transactions concerning items subject to the Regulations that were to be exported from the United States in violation of a BIS order temporarily denying his export privileges. On two separate occasions -- on or about October 22, 2002 and on or about November 11, 2002 -- Talyi sent e-mails to an oil field equipment broker located in the United States that directed the broker to obtain price quotations for oil field parts that were to be

exported from the United States to the United Arab Emirates. Between October and November of 2002, Talyi also arranged for the attempted export of items subject to the Regulations from the United States to the United Arab Emirates from a grocery store in Slidell, Louisiana. Then, on or about December 13, 2002, Talyi sent an e-mail to the oil field equipment broker referenced above that included an attachment describing the technical information about the oil field parts to be exported from the United States to the United Arab Emirates. In the e-mail, Talyi asked the broker if he would like to handle the file and directed the broker to clarify parts specifications in response to comments provided by the end-user in the United Arab Emirates. Talyi's participation in these four transactions was contrary to the terms and conditions of a September 30, 2002 BIS Temporary Denial Order denying Talyi's export privileges. In doing so, Talyi committed four violations of Section 764.2(k) of the Regulations.

The charging letter alleged that, in connection with three of the violations of Section 764.2(k) of the Regulations discussed above, Talyi ordered the items at issue with knowledge that such actions were in violation of the terms and conditions of a September 30, 2002 BIS Temporary Denial Order. In so doing, Talyi committed three violations of Section 764.2(e) of the Regulations.

On the basis of the factual record before the Administrative Law Judge ("ALJ"), he found that Talyi failed to file an answer to BIS's charging letter within the time required by the Regulations. Indeed, as service of the notice of issuance of the charging letter on Talyi's counsel was properly effected on June 30, 2004, a response to the charging letter was due no later than July 30, 2004. The record does not include any such response from the respondent. The ALJ therefore held Talyi in default.

Under the default procedures set forth in Section 766.7(a) of the Regulations, “[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent’s right to appear,” and “on BIS’s motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter.” Accordingly, on November 18, 2004, the ALJ issued a Recommended Decision and Order, in which he found that the facts alleged in the charging letter constitute the findings of fact in this matter and, thereby, establish that Talyi committed one violation of Section 764.2(a), one violation of Section 764.2(c), five violations of Section 764.2(e), and four violations of Section 764.2(k) of the Regulations. The ALJ also recommended a 20-year denial of the respondent’s export privileges and a maximum civil penalty of \$121,000 against the respondent.

Pursuant to Section 766.22 of the Regulations, the ALJ’s Recommended Decision and Order has been referred to me for final action. Based on my review of the entire record, I find that the record supports the ALJ’s findings of fact and conclusions of law regarding each of the above-referenced charges. I also find that the penalty recommended by the ALJ is appropriate given the complete disregard for U.S. export control laws demonstrated by the respondent. Talyi knowingly violated the Regulations, violated the terms and conditions of a Temporary Denial Order, breached his plea agreement in a criminal case by refusing to sign a civil settlement agreement offered by BIS, and failed to participate in this administrative proceeding.

Specifically, Talyi knowingly violated the Regulations by ordering and shipping oil field parts from the United States to Libya, a sanctioned country. He also violated the terms and conditions of a BIS Temporary Denial Order on four occasions by participating in exports and attempted exports to the United Arab Emirates. On three of these occasions, Talyi ordered the

items at issue with knowledge that the required U.S. government authorization would not be obtained. In January 29, 2004, pursuant to a plea agreement filed with the U.S. District Court for the Eastern District of Louisiana, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in the export and attempted export of items from the United States to the United Arab Emirates in violation of the Temporary Denial Order. In the plea agreement, Talyi agreed to settle the BIS administrative case by paying a \$75,000 civil penalty and accepting a 10-year denial of export privileges. However, Talyi subsequently refused to sign the settlement agreement, and Talyi's counsel ignored repeated attempts by counsel for BIS to discuss the matter in Spring of 2004. Moreover, once this administrative proceeding was initiated against Talyi, he did not respond to the charging letter or otherwise participate in the proceeding. In light of these circumstances, I affirm the findings of fact and conclusions of law of the ALJ's Recommended Decision and Order.

IT IS HEREBY ORDERED,

FIRST, that a civil penalty of \$121,000 is assessed against Talyi, which shall be paid to the 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, Talyi will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as further described in the attached Notice.



THIRD, that, for a period of 20 years from the date on which this Order takes effect, Yaudat Mustafa Talyi, a.k.a. Yaudat Mustafa, a.k.a. Joseph Talyi (“Talyi”), 41 Chamale Cove East, Slidell, Louisiana 70460, and, when acting for or on behalf of Talyi; his representatives, agents, assigns, and employees (individually referred to as “a 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. Benefiting 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 connection with any other activity subject to the Regulations.

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

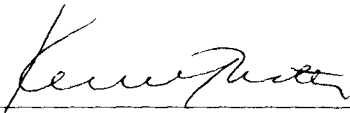
- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;

- B. Take any action that facilitates the acquisition or attempted acquisition by a 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 a 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 a Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from a 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 that is owned, possessed, or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed, or controlled by a 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.

FIFTH, 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 a Denied Person 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 this Order.

SIXTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the *Federal Register*.



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Kenneth I. Juster

Under Secretary of Commerce  
for Industry and Security

Dated: December 20, 2004