

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

..... )  
In the Matter of: )  
 )  
Air Tiger Express )  
755 North Nash Street )  
El Segundo, CA 90245 )  
 )  
Respondent. )  
..... )

ORDER RELATING TO AIR TIGER EXPRESS.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Air Tiger Express (“Air Tiger”) of its intention to initiate an administrative proceeding against Air Tiger pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“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 Air Tiger that alleged that Air Tiger committed nine violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The charged violations occurred in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998 & 1999)). The 2004 Regulations set forth 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 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.

1. *Nine Violations of 15 C.F.R. § 764.2(b) - Aiding or abetting unlicensed exports to Entity List Organizations:* On nine occasions between on or about December 16, 1998 and on or about November 28, 1999, Air Tiger Express aided and abetted the unauthorized export of items subject to the Regulations (ECCN<sup>3</sup> 2B999 and EAR<sup>4</sup>) from the United States to organizations in India without the Department of Commerce licenses required by Section 744.1 of the Regulations. At all times relevant hereto, these organizations were listed on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations.

WHEREAS, BIS and Air Tiger 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 \$49,500 is assessed against Air Tiger, 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.

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<sup>3</sup>“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

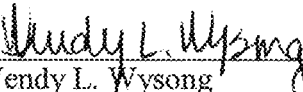
<sup>4</sup>EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list.

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

  
\_\_\_\_\_  
Wendy L. Wysong  
Acting Assistant Secretary of  
Commerce for Export Enforcement

Entered this 30th day of March 2005.

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

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In the Matter of: )  
 )  
Air Tiger Express )  
755 North Nash Street )  
El Segundo, CA 90245 )  
 )  
Respondent. )  
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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Respondent, Air Tiger Express ("Air Tiger"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) ("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>

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<sup>1</sup> The charged violations occurred in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998 & 1999)). The 2004 Regulations set forth 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 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.

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

WHEREAS, BIS has issued a proposed charging letter to Air Tiger that alleged that Air Tiger committed nine violations of the Regulations, specifically:

1. *Nine Violations of 15 C.F.R. § 764.2(b) - Aiding or abetting unlicensed exports to Entity List Organizations:* On nine occasions between on or about December 16, 1998 and on or about November 28, 1999, Air Tiger Express aided and abetted the unauthorized export of items subject to the Regulations (ECCN<sup>3</sup> 2B999 and EAR99<sup>4</sup>) from the United States to organizations in India without the Department of Commerce licenses required by Section 744.1 of the Regulations. At all times relevant hereto, these organizations were listed on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations.

WHEREAS, Air Tiger 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, Air Tiger fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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<sup>3</sup>"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup>EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Air Tiger, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Air Tiger in complete settlement of the violation of the Regulations set forth in the proposed charging letter:
  - a. Air Tiger shall be assessed a civil penalty in the amount of \$49,500, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions.
  - 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, License Exception, permission, or privilege granted, or to be granted, to Air Tiger.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Air Tiger'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, Air Tiger 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 the proposed 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 C.F.R. § 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 \$49,500 civil penalty, BIS will not initiate any further administrative proceeding against Air Tiger in connection with any violation of the Act or the Regulations arising out of the transaction 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.

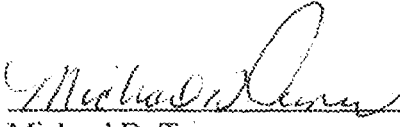
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

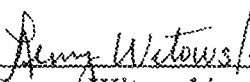
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

AIR TIGER EXPRESS

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

  
\_\_\_\_\_  
Lenny Witowski  
Vice President

Date: 3/29/05

Date: 3/25/05



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Air Tiger Express  
755 North Nash Street  
El Segundo, CA 90245

*Attention: Lenny Witowski  
Vice-President*

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Air Tiger Express ("Air Tiger") violated 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>, on nine occasions. Specifically, BIS charges that Air Tiger committed the following violations:

**Charges 1-9 15 C.F.R. § 764.2(b) - Aiding or abetting unlicensed exports to Entity List Organizations**

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on nine occasions between on or about December 16, 1998 and November 28, 1999, Air Tiger Express aided and abetted the doing of an act prohibited by the Regulations by

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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 in 1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998 & 1999)). The 2004 Regulations set forth 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., p. 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.

shipped items subject to the Regulations (ECCN<sup>3</sup> 2B229 and EAR99<sup>4</sup>) from the U.S. to organizations in India without the Department of Commerce license required by Section 744.1 of the Regulations. At all times relevant hereto, these organizations were listed on the Entity List set forth at Supplement No. 4 to Part 744 of the Regulations. In so doing, Air Tiger committed nine violations of Section 764.2(b) of the Regulations.

Accordingly, Air Tiger is hereby notified that an administrative proceeding is instituted against it 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>5</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Air Tiger is further notified that it is entitled to an agency hearing on the record if Air Tiger files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Air Tiger is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *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 you have a proposal to settle this case, your or your representative should transmit it to the attorney representing BIS named below.

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<sup>3</sup>“ECCN” refers to “Export Control Classification Number.” *See* Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup>EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control list.

<sup>5</sup> *See* 15 C.F.R. § 6.4(a)(2).

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

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

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

Parvin R. Huda is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Acting Director  
Office of Export Enforcement

## SCHEDULE AIR TIGER

CHARGE NUMBERS	DATE OF VIOLATION	DESTINATION	COMMODITY EXPORTED	ECCN	VALUE	VIOLATIONS	AWB#
1	12/16/98	Space Applications Center, India	coaxial circulators	EAR99	\$27,671	15 C.F.R. § 764.2(b)	LAX 83358
2	12/16/98	Vikram Sarabhai Space Centre, India	power supply and control system and accessories	2B299	\$98,822.35	15 C.F.R. § 764.2(b)	LAX 83362
3	12/16/98	Vikram Sarabhai Space Centre, India	amplifiers	EAR99	\$82,203.50	15 C.F.R. § 764.2(b)	LAX 83267
4	12/16/98	Liquid Propulsion Systems Centre, India	heat shrink tubing	EAR99	\$89	15 C.F.R. § 764.2(b)	LAX 83362
5	12/16/98	Vikram Sarabhai Space Centre, India	electronic components (high density right angle connectors)	EAR99	\$3989.75	15 C.F.R. § 764.2(b)	LAX 83372
6	12/16/98	National Aerospace Laboratories, India	replicating tape	EAR99	\$142.50	15 C.F.R. § 764.2(b)	LAX 83335
7	12/21/98	Vikram Sarabhai Space Centre, India	band pass filters	EAR99	\$37,215	15 C.F.R. § 764.2(b)	LAX 83172
8	2/28/99	Centre for Development of Advanced Computing, India	computer hardware keys	EAR99	\$450	15 C.F.R. § 764.2(b)	LAX 904471
9	11/28/99	Vikram Sarabhai Space Centre, India	PC expansion bus adaptors	EAR99	\$1174.96	15 C.F.R. § 764.2(b)	LAX 93246