

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

In the Matter of:)
)
Medical Equipment Specialists, Inc.)
14 Lake Avenue)
Worcester, MA 01604)
)
Respondent.)
_____)

ORDER RELATING TO MEDICAL EQUIPMENT SPECIALISTS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Medical Equipment Specialists, Inc. (“MES”) of its intention to initiate an administrative proceeding against MES pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to MES, which alleged that MES committed five violations of the Regulations. Specifically, the charges are:

¹ The violations charged occurred during 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

² 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. 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 by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

1. *One Violation of 15 C.F.R. § 764.2(c) - Attempting an unauthorized export to Cuba:* On or about June 29, 2000 MES attempted to violate the Regulations by trying to export X-Ray Film Processors, items subject to the Regulations, to Cuba via Canada without obtaining a BIS license as required by Section 746.2 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e)- Acting with knowledge of a violation:* On or about June 29, 2000 MES sold and/or disposed of X-Ray Film Processors, items subject to the Regulations, with knowledge that a violation of the Regulations was about to occur or intended to occur in connection with the items. Specifically, MES sold and/or disposed of the items knowing that the export license required by BIS for the export of the items to Cuba would not be obtained.
3. *One Violation of 15 C.F.R. §764.2(g) - False representation to the U.S. Government:* On or about June 29, 2000, MES made a false representation to the U.S. Government in connection with the preparation or use of an export control document. Specifically, MES stated on a Shipper's Export Declaration, an export control document as defined by Part 772 of the Regulations, that the country of ultimate destination of X-Ray Film Processors, items subject to the Regulations, was the Virgin Islands, when in fact the country of ultimate destination was Cuba.
4. *One Violation of 15 C.F.R. §764.2(e) - Acting with knowledge of a violation:* On or about June 29, 2000 MES transferred the X-Ray Film Processors, items subject to the Regulations, with knowledge that a violation of the Regulations was about to occur or intended to occur in connection with the items. Specifically, MES transferred the items to a freight forwarder knowing that it had falsely stated on

the Shipper's Export Declaration that the Virgin Islands was the country of ultimate destination.

5. *One Violation of 15 C.F.R. §764.2(d) - Conspiracy to do an act that is in violation of the Regulations:* On or about June 29, 2000 MES conspired with one or more persons to do an act that constituted a violation of the Regulations. Specifically, MES arranged with co-conspirators, known and unknown, to export X-Ray Film Processors, items subject to the Regulations, to Cuba via Canada without the BIS export license required by Section 746.2 of the Regulations. MES took one or more acts in furtherance of the conspiracy, including contracting to sell the items.

WHEREAS, BIS and MES 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:

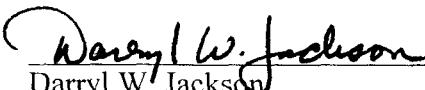
FIRST, that a civil penalty of \$37,500 is assessed against MES, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, MES 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 MES. Accordingly, if MES should fail to pay the civil penalty in a timely manner, the Assistant Secretary for Export Enforcement may enter an Order denying all of MES's export privileges under the Regulations 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.



Darryl W. Jackson
Assistant Secretary of
Commerce for Export Enforcement

Entered this 7th day of November 2005.

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

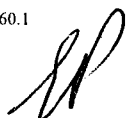
In the Matter of:)
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Medical Equipment Specialists, Inc.)
14 Lake Avenue)
Worcester, MA 01604)
)
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Respondent.)
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Medical Equipment Specialists, Inc. (“MES”), 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 (2005)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

¹ The violations charged occurred during 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

² 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. 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 by the Notice of August 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.



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

WHEREAS, BIS has issued a proposed charging letter to MES that alleged that MES committed five violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 764.2(c) - Attempting an unauthorized export to Cuba:* On or about June 29, 2000 MES attempted to violate the Regulations by trying to export X-Ray Film Processors, items subject to the Regulations, to Cuba via Canada without obtaining a BIS license as required by Section 746.2 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e)- Acting with knowledge of a violation:* On or about June 29, 2000 MES sold and/or disposed of X-Ray Film Processors, items subject to the Regulations, with knowledge that a violation of the Regulations was about to occur or intended to occur in connection with the items. Specifically, MES sold and/or disposed of the items knowing that the export license required by BIS for the export of the items to Cuba would not be obtained.
3. *One Violation of 15 C.F.R. §764.2(g) - False representation to the U.S. Government:* On or about June 29, 2000, MES made a false representation to the U.S. Government in connection with the preparation or use of an export control document. Specifically, MES stated on a Shipper's Export Declaration, an export control document as defined by Part 772 of the Regulations, that the country of



WHEREAS, MES 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;

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

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

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

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

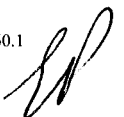
WHEREAS, MES agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over MES, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against MES in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

- a. MES shall be assessed a civil penalty in the amount of \$37,500, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry



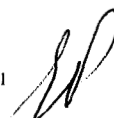
of the Order. Payment shall be made in the manner specified in the attached instructions.

- 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 MES. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of MES's export privileges under the Regulations 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, MES 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 filed against MES relating to this investigation; (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 \$37,500 civil penalty, BIS will not initiate any further administrative proceeding against MES in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if 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

MEDICAL EQUIPMENT SPECIALISTS, INC.



Michael D. Turner
Director
Office of Export Enforcement



Eduardo Paredes
President

Date: 11/2/05

Date: 10/12/05

DRAFT

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Medical Equipment Specialists, Inc.
14 Lake Avenue
Worcester, MA 01604

*Attn: Eduardo Paredes
President*

Dear Mr. Paredes:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has reason to believe that Medical Equipment Specialists, Inc. (hereinafter, "MES"), of Worcester, Massachusetts, has committed five violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that MES committed the following violations:

Charge 1 15 C.F.R. §764.2(c) - Attempting an unauthorized export to Cuba

On or about June 29, 2000 MES attempted to violate the Regulations by trying to export X-Ray Film Processors, items subject to the Regulations, to Cuba via Canada without obtaining a BIS license as required by Section 746.2 of the Regulations. In so doing, MES committed one violation of Section 764.2(c) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) - Acting with knowledge of a violation

On or about June 29, 2000 MES sold and/or disposed of X-Ray Film Processors, items subject to the Regulations, with knowledge that a violation of the Regulations was about to occur or intended to occur in connection with the items. Specifically, MES sold and/or disposed of the items knowing that the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred during 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

export license required by BIS for the export of the items to Cuba would not be obtained. In so doing, MES committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. §764.2(g) - False representation to the U.S. Government

On or about June 29, 2000, MES made a false representation to the U.S. Government in connection with the preparation or use of an export control document. Specifically, MES stated on a Shipper's Export Declaration, an export control document as defined by Part 772 of the Regulations, that the country of ultimate destination of X-Ray Film Processors, items subject to the Regulations, was the Virgin Islands, when in fact the country of ultimate destination was Cuba. In so doing, MES committed one violation of Section 764.2(g) of the Regulations.

Charge 4 15 C.F.R. §764.2(e) - Acting with knowledge of a violation

On or about June 29, 2000 MES transferred the X-Ray Film Processors, items subject to the Regulations, with knowledge that a violation of the Regulations was about to occur or intended to occur in connection with the items. Specifically, MES transferred the items to a freight forwarder knowing that it had falsely stated on the Shipper's Export Declaration that the Virgin Islands was the country of ultimate destination. In so doing, MES committed one violation of Section 764.2(e) of the Regulations.

Charge 5 15 C.F.R. §764.2(d) - Conspiracy to do an act that is in violation of the Regulations.

On or about June 29, 2000 MES conspired with one or more persons to do an act that constituted a violation of the Regulations. Specifically, MES arranged with co-conspirators, known and unknown, to export X-Ray Film Processors, items subject to the Regulations, to Cuba via Canada without the BIS export license required by Section 746.2 of the Regulations. MES took one or more acts in furtherance of the conspiracy, including contracting to sell the items. In so doing, MES committed one violation of Section 764.2(d) of the Regulations.

Accordingly, MES is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

MES is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. (Regulations, Section 766.6). MES is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

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

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

³ See 15 C.F.R. § 6.4(a)(4) (2005).

Medical Equipment Specialists, Inc.
Proposed Charging Letter
Page 4

Charles Wall is the attorney representing BIS in this case; any communications that MES 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