

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

In the Matter of:)
)
Tariq Ahmed)
)
612 Business Centre) 05-BIS-26
Mumtaz Hasan Road)
Off I.I. Chundrigar Road)
Karachi, Pakistan)
)
Respondent.)

FINAL DECISION AND ORDER

This matter is before me upon a Recommended Decision and Order (“RDO”) of an Administrative Law Judge (“ALJ”), as further described below.

On December 15, 2005, the Bureau of Industry and Security (“BIS”) issued a charging letter alleging that Respondent, Tariq Ahmed,¹ committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008) (“Regulations”)),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (“Act”).³ The charging letter included a charge that was based

¹ Tariq Ahmed is also known as Tariq Amin, Tariq Ahmad, and Tariq Ahmad Amin.

² The charged violations occurred during 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2008 Regulations establish the procedures that apply to this matter.

³ 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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)),

on actions taken by Tariq Ahmed to evade licensing requirements governing the export of items subject to the Regulations from the United States to a Pakistani organization listed on BIS's Entity List. Specifically, Charge One alleged as follows:

Charge 1 (15 C.F.R. §764.2(h) - Actions Taken with Intent to Evade the Provisions of the Regulations)

On or about April 27, 2002, T[ariq] Ahmed took actions with the intent to evade the U.S. Government's licensing requirements for exports to Pakistan. Specifically, T[ariq] Ahmed took actions, including but not limited to, the submission of false information to a freight forwarder in connection with an export of components for an online chemical monitoring system, items subject to the Regulations (EAR99 and 4A994⁴), from the United States to the Karachi Nuclear Power Plant ("KANUPP") in Karachi, Pakistan via the UAE. T[ariq] Ahmed provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The purpose of T[ariq] Ahmed's actions was to conceal the end-user, KANUPP, a Pakistani organization on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations and for which a Department of Commerce export license was required by Section 744.1 of the Regulations. In so doing, T[ariq] Ahmed committed one violation of Section 764.2(h) of the Regulations.⁵

In accordance with § 766.3(b)(1) of the Regulations, on December 15, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to Tariq Ahmed at his last known address, which is in Pakistan. Although BIS did not receive a signed return mail receipt for the letter, the charging letter was apparently delivered no later than January 17, 2006, as the BIS attorney (Ms. Huda) named in the charging letter reported receiving a telephone message that day from Mr. Ahmed seeking to discuss that letter, as well as the charging letter served in a related administrative proceeding also initiated by BIS on December 15, 2005, In the Matter of

has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

⁴ "ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

⁵ The Charging Letter included a second evasion charge, Charge Two, relating to BIS's export control documentation filing requirements. By Notice of Withdrawal filed with the Administrative Law Judge simultaneously with its Motion for Default Order, BIS provided notice that it was withdrawing Charge Two. Thus, Charge Two was not part of BIS's Motion for Default Order.

Advanced Technical System (Docket No. 05-BIS-25).⁶ According to the filed pleadings, on the following day, January 18, 2006, Ms. Huda returned the call. She and Mr. Ahmed discussed the possibility of settlement, and Mr. Ahmed concurred in Ms. Huda's suggestion of a 60-day stay in both proceedings to pursue settlement discussions. BIS subsequently filed an unopposed request to stay both proceedings. An order granting a stay until May 14, 2006 was issued on April 4, 2006.

To date, Mr. Ahmed has not filed an answer to BIS's charging letter. Neither has Mr. Ahmed responded to the motion for default or to the recommended decision and order, both of which were served upon him at his last known address.

Under Section 766.6(a) of the Regulations, the "respondent must answer the charging letter within 30 days after being served with notice of issuance" of the charging letter. Section 766.7(a) of the Regulations provides, in turn, that the "[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter," and that "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[.]"

In accordance with Section 766.7 of the Regulations, and because more than thirty days had passed since Tariq Ahmed had been served with the charging letter, BIS filed a Motion for Default Order on January 12, 2009. This Motion for Default Order recommended that Tariq Ahmed be denied export privileges under the Regulations for a period of seven years.

On March 20, 2009, based on the record before him, the ALJ issued a RDO in which he found Tariq Ahmed in default, found the facts to be as alleged in Charge One of the charging letter, and determined that those facts established that Mr. Ahmed had committed the violation

⁶ Mr. Ahmed is the principal of the respondent in the relating proceeding, Advanced Technical System ("ATS"), a company located in Dubai, United Arab Emirates ("UAE").

alleged in Charge One of the charging letter, specifically, one violation of Section 764.2(h). The ALJ also recommended the penalty of denial of Mr. Ahmed's export privileges for seven years, citing BIS's arguments in favor of such a penalty, including the sensitivity of the ultimate end-user, a Pakistani entity on BIS's Entity List, a compilation of end-users that pose a risk of diversion to weapons of mass destruction programs. Additionally, the ALJ referred to BIS's argument that the penalty was warranted as Mr. Ahmed's actions were part of a larger criminal conspiracy to violate U.S. export control laws and regulations. Mr. Ahmed pled guilty to one count of violating the federal conspiracy statute in connection with making shipments to Pakistan.

The ALJ's RDO, together with the entire record in this case, has been referred to me for final action under § 766.22 of the Regulations. I find that, consistent with § 766.7(a), the findings of fact and conclusions of law in the recommended decision and order are fully supported. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violation and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's RDO.

ACCORDINGLY, IT IS THEREFORE ORDERED,

FIRST, that, for a period of seven (7) years from the date this Order is published in the Federal Register, Tariq Ahmed, 612 Business Centre, Mumtaz Hasan Road, Off I.I. Chundrigar Road, Karachi, Pakistan, and when acting for or on behalf of Tariq Ahmed, his representatives, agents, assigns and employees (hereinafter collectively referred to as the "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity,

software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

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

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

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to the 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.

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

FIFTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the Federal Register.

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

Dated: April 17, 2009

D.O. Hill

Daniel O. Hill
Acting Under Secretary of Commerce for Industry and Security

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

_____)	
In the Matter of:)	
)	
Tariq Ahmed)	
612 Business Centre)	05-BIS-26
Mumtaz Hasan Road)	
Off I.I. Chundrigar Road)	
Karachi, Pakistan)	
)	
_____ Respondent)	

RECOMMENDED DECISION AND ORDER
IN ACCORDANCE WITH REMAND FROM ACTING UNDERSECRETARY

On December 15, 2005, the Bureau of Industry and Security (BIS), U.S. Department of Commerce, issued a charging letter initiating this administrative enforcement proceeding against Tariq Ahmed.¹ The charging letter alleged that Tariq Ahmed committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the "Regulations"),² issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act").³ In accordance with Section 766.7 of the Regulations, BIS has moved for the issuance of an Order of Default against Tariq Ahmed in connection with

¹ Tariq Ahmed was also known as Tariq Amin, Tariq Ahmad, and Tariq Ahmad Amin during the period in which the charged violations occurred.

² The charged violations occurred during the 2002 period. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2008 Regulations establish the procedures that apply to this matter.

³ 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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2000)).

Charge 1 in the charging letter, as Tariq Ahmed has failed to file an Answer to the allegations in the charging letter within the time period required by law.⁴

A. Legal Authority for Issuing an Order of Default

Section 766.7 of the Regulations states that upon motion by BIS, the Court shall enter a judgment of default if a respondent fails to file a timely answer to the charging letter. That section, entitled Default, provides in pertinent part as follows:

Failure of the respondent to file an answer within the time provided constitutes 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 appropriate sanctions.

15 C.F.R. § 766.7 (2008).

Pursuant to § 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.

B. Service of the Notice of Issuance of Charging Letter

Section 766.3(b)(1) of the Regulations provides that notice of the issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. BIS properly served notice of the

⁴ In a Notice of Withdrawal of Charge filed simultaneously with its Motion for Default Order, BIS provided notice to the Administrative Law Judge that it was withdrawing Charge 2 from the charging letter.

issuance of a charging letter in accordance with this provision. On December 15, 2005, BIS mailed the notice of issuance of a charging letter by registered mail to Tariq Ahmed at his last known address in Pakistan. Pursuant to Section 766.3(c) of the Regulations, the date of service in this case is the date of delivery. Although the receipt BIS subsequently received did not include a date stamp, the charging letter was served on Tariq Ahmed no later than January 17, 2006, because Mr. Ahmed left a telephone message on that date with the attorney representing BIS in the present proceeding.

During a conversation on the following day, Mr. Ahmed and the BIS attorney discussed the possibility of settlement discussions, and Mr. Ahmed concurred with the BIS attorney's suggestion of a 60-day stay in this proceeding to pursue settlement discussions. A stay of the proceeding was subsequently granted and was in effect until May 14, 2006. Under Section 766.6(a) of the Regulations, a respondent must file an answer to the charging letter within 30 days after being served with notice of issuance of the charging letter initiating the administrative enforcement proceeding. Due to the stay of the proceedings, Tariq Ahmed had 30 days from May 14, 2006, until June 13, 2006, to file an answer to the charging letter. To date, Tariq Ahmed has not filed an answer.

C. Summary of Violations Charged

The charging letter filed by BIS included a total of two charges. By Notice of Withdrawal filed with the Administrative Law Judge, BIS provided notice that it was withdrawing the second charge. BIS's Motion for Default Order pertained to the sole remaining charge, Charge 1, which alleged that on or about April 27, 2002, Tariq Ahmed took actions with intent to evade the U.S. Government's licensing requirements for exports to Pakistan by

submitting false information to a freight forwarder in connection with an export of components for an online chemical monitoring system, items subject to the Regulations (“EAR99”⁵ and “ECCN 4A994”⁶), from the United States to the Karachi Nuclear Power Plant (“KANUPP”) in Karachi, Pakistan via the United Arab Emirates (“UAE”). Tariq Ahmed provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The charging letter alleged that the purpose of Tariq Ahmed’s actions was to conceal the end-user, KANUPP, a Pakistani organization on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations and for which a Department of Commerce export license was required by Section 744.1 of the Regulations. The charging letter alleged that by taking these actions, Tariq Ahmed committed one violation of Section 764.2(h) of the Regulations.

[REDACTED SECTION]

⁵ EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁶ “ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

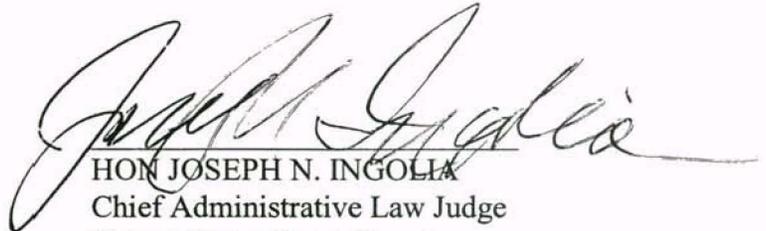
[REDACTED SECTION]

E. Conclusion

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in § 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).

Done and Dated 20th of March, 2009
Baltimore, Maryland


HON JOSEPH N. INGOLIA
Chief Administrative Law Judge
United States Coast Guard

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon the following parties and limited participants (or designated representatives) in this proceeding at the address indicated by Facsimile and Federal Express:

Parvin R. Huda, Attorney-Advisor
Attorneys for Bureau of Industry and Security
Office of Chief Counsel for Industry and Security
U.S. Department of Commerce, Room H-3839
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230
Facsimile: (202) 482-0085

I hereby certify that I have this day served the foregoing document(s) upon the following parties and limited participants (or designated representatives) in this proceeding at the address indicated by Federal Express:

Tariq Ahmed
612 Business Centre
Mumtaz Hasan Road
Off I.I. Chundrigar Road
Karachi, Pakistan

Done and dated this 20th day of March, 2009 at
Baltimore, Maryland



Lauren M. Meus
Paralegal Specialist
U.S. Coast Guard

DEC 15 2005



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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Tariq Ahmed
612 Business Centre
Mumtaz Hasan Road
Off I.I. Chundrigar Road
Karachi, Pakistan

Dear Mr. Ahmed:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Tariq Ahmed, as an operations specialist of NEAZ Trading Corporation ("NEAZ") of Karachi, Pakistan, in your individual capacity ("TAhmed")¹, have committed two violations of the Export Administration Regulations (the "Regulations"),² which are issued under the authority of the Export Administration Act of 1979 (the "Act").³ Specifically, BIS charges that TAhmed has committed the following violations:

Charge 1 (15 C.F.R. §764.2(h) - Actions Taken with Intent to Evade the Provisions of the Regulations)

¹Tariq Ahmed was also known as Tariq Amin, Tariq Ahmad, and Tariq Ahmad Amin during the period in which the charged violations occurred.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred during the 2002 period. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002)). The 2005 Regulations establish the procedures that apply to this matter.

³ 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. 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 the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).



On or about April 27, 2002, TAHmed took actions with the intent to evade the U.S. Government's licensing requirements for exports to Pakistan. Specifically, TAHmed took actions, including but not limited to, the submission of false information to a freight forwarder in connection with an export of components for an online chemical monitoring system, items subject to the Regulations (EAR99 and 4A994⁴), from the United States to the Karachi Nuclear Power Plant ("KANUPP") in Karachi, Pakistan via the UAE. TAHmed provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The purpose of TAHmed's actions was to conceal the end-user, KANUPP, a Pakistani organization on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations and for which a Department of Commerce export license was required by Section 744.1 of the Regulations. In so doing, TAHmed committed one violation of Section 764.2(h) of the Regulations.

Charge 2 (15 C.F.R. §764.2(h) - Actions Taken with Intent to Evade the Provisions of the Regulations)

On or about April 29, 2002, TAHmed took actions with the intent to evade the U.S. Government's paperwork filing requirements for the export of items to Pakistan. Specifically, TAHmed provided false information to a freight forwarder as to the value of the components for an online chemical monitoring system, items subject to the Regulations, intended for export from the United States to KANUPP in Karachi, Pakistan via the UAE. TAHmed informed the freight forwarder that each item's value was less than \$2,500 and that the total value of the items was \$7,500 or less. This information was false, as the total value of the shipment was actually \$87,868. The purpose of TAHmed's actions was to conceal the actual total value and hence circumvent the filing of a Shipper's Export Declaration ("SED") as required by Section 758.1 of the Regulations. In so doing, TAHmed committed one violation of Section 764.2(h) of the Regulations.

Accordingly, TAHmed 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:

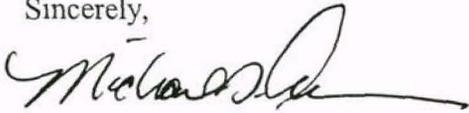
⁴"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

Tariq Ahmed

Page 4

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

Sincerely,

A handwritten signature in black ink, appearing to read "Michael D. Turner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael D. Turner

Director

Office of Export Enforcement