

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

In the Matter of:

Total Cargo Logistics, Inc.
52 Butler Street
Elizabeth, New Jersey 07206

Respondent

ORDER RELATING TO
TOTAL CARGO LOGISTICS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Total Cargo Logistics, Inc., of Elizabeth, New Jersey (“TCL”), of its intention to initiate an administrative proceeding against it pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to TCL that alleges that it committed one violation of the Regulations. Specifically, the charge is:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth 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 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Exports to Syria without the Required Licenses

On or about March 5, 2010, TCL caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of PVC cement and primer cleaners, items subject to the Regulations, designated EAR99,³ and valued at approximately \$57,000, from the United States to Syria without the required Department of Commerce license. The export to Syria of these items without the required license was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations. Specifically, TCL caused, aided or abetted the unlicensed export from the United States by, *inter alia*, accepting these items from the exporter, preparing and/or processing and filing with the United States Government the Automated Export System records associated with these items, and arranging for the transport of these items to Syria. In so doing, TCL committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and TCL 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, TCL shall be assessed a civil penalty in the amount of \$27,000. TCL shall pay the U.S. Department of Commerce in four installments of: \$6,750 not later than December 2, 2013; \$6,750 not later than February 3, 2014; \$6,750 not later than April 1, 2014; \$6,750 not later than June 2, 2014. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments shall become due and owing immediately.

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

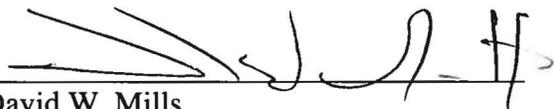
³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2010).

interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, TCL 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, TCL shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect TCL's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

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.


David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 30th day of September, 2013.

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

In the Matter of:

Total Cargo Logistics, Inc.
52 Butler Street
Elizabeth, New Jersey 07206

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Total Cargo Logistics, Inc., of Elizabeth, New Jersey (“TCL”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified TCL of its intentions to initiate an administrative proceeding against it, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to TCL that alleges that it committed one violation of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth 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 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Export to Syria without the Required Licenses

On or about March 5, 2010, TCL caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of PVC cement and primer cleaners, items subject to the Regulations, designated EAR99,³ and valued at approximately \$57,000, from the United States to Syria without the required Department of Commerce license. The export to Syria of these items without the required license was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations. Specifically, TCL caused, aided or abetted the unlicensed export from the United States by, *inter alia*, accepting these items from the exporter, preparing and/or processing and filing with the United States Government the Automated Export System records associated with these items, and arranging for the transport of these items to Syria. In so doing, TCL committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, TCL has reviewed the Proposed Charging Letter and is aware of the allegation made against it and the administrative sanctions that could be imposed against it if the allegation is found to be true;

WHEREAS, TCL fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, TCL enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, TCL neither admits nor denies the allegation contained in the Proposed Charging Letter;

WHEREAS, TCL wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2010).

WHEREAS, TCL agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over TCL, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against TCL in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. TCL shall be assessed a civil penalty in the amount of \$27,000.

TCL shall pay the U.S. Department of Commerce in four installments of: \$6,750 not later than December 2, 2013; \$6,750 not later than February 3, 2014; \$6,750 not later than April 1, 2014; \$6,750 not later than June 2, 2014. Payment shall be made in the manner specified in the attached instructions. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments shall become due and owing immediately.

b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, is hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to TCL. Failure to make full and timely payment of the civil penalty may result in the denial of all of TCL's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, TCL 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 issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. TCL also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transaction identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until the date TCL pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. TCL shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect TCL's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a BIS will not initiate any further administrative proceeding against TCL in connection with any violation of the Act or the Regulations arising out of the transaction specifically detailed in the Proposed Charging Letter.

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 issued; 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 issuing 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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. Each signatory affirms that it has authority to enter into this Settlement Agreement and to bind its respective party to the terms and conditions set forth herein.

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



Douglas R. Hassebrock
Director of Export Enforcement

Date: 30 Sep 2013

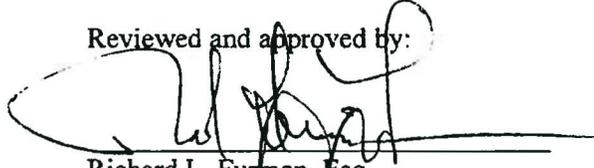
Total Cargo Logistics, Inc.



Brian Ventura

Date: 9/30/13

Reviewed and approved by:



Richard L. Furman, Esq.
Carroll McNulty & Kull, LLC
Counsel for Total Cargo Logistics, Inc.

Date: 9/30/13

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Total Cargo Logistics, Inc.
52 Butler Street
Elizabeth, New Jersey 07206

Attn: *Brian Ventura*
President and Owner

Dear Mr. Ventura:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Total Cargo Logistics, Inc., of Elizabeth, New Jersey (“TCL”), has committed one violation of the Export Administration Regulations (the “Regulations”),¹ issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges the following:

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Exports to Syria without the Required Licenses

On or about March 5, 2010, TCL caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of PVC cement and primer cleaners, items subject to the Regulations, designated EAR99,³ and valued at approximately \$57,000, from the United States to Syria without the required Department of Commerce license. The export to Syria of these items without the required license was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations. Specifically, TCL caused, aided or abetted the unlicensed export from the United States by, *inter alia*, accepting these items from the exporter,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2010. The Regulations governing the violation at issue are found in the 2010 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2010)). The 2013 Regulations set forth 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)), as amended by Executive Order 13637 of March 8, 2013, 78 Fed. Reg. 16129 (Mar. 13, 2013), and as extended by successive presidential notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2010).

preparing and/or processing and filing with the United States Government the Automated Export System records associated with these items, and arranging for the transport of these items to Syria. In so doing, TCL committed one violation of Section 764.2(b) of the Regulations.

* * * *

Accordingly, TCL 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 up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If TCL fails to answer the charge contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If TCL defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to TCL. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charge in this letter.

TCL 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. *See* 15 C.F.R. § 766.6. TCL 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 TCL have a proposal to settle this case, TCL or its representative should transmit it to the attorney representing BIS named below.

TCL is further notified that under the Small Business Regulatory Enforcement Flexibility Act, TCL may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, TCL'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 TCL's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement