

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

In the Matter of:)
)
Galaxy Aviation Trade Company Ltd.)
15 Moreland Court)
Lyndale Avenue)
Finchley Road)
London, UK)
NW2 2PJ)
)
Hooshang Seddigh)
15 Moreland Court)
Lyndale Avenue)
Finchley Road)
London, UK)
NW2 2PJ)
)
Hamid Shakeri Hendi)
5th Floor)
23 Nafisi Avenue)
Shahrak Ekbatan, Karaj Special Road)
Tehran, Iran)
)
Hossein Jahan Peyma)
2/1 Makran Cross)
Heravi Square)
Moghan Ave, Pasdaran Cross)
Tehran, Iran)
)
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)
)
Appellants)
)

FINAL DECISION AND ORDER

This matter is before me upon a Recommended Decision and Order of the Administrative Law Judge (“ALJ”) issued on September 16, 2008.

On August 27, 2008, the Appellants, Galaxy Aviation Trade Company Ltd, Hooshang Seddigh, Hamid Shakeri Hendi and Hossein Jahan Peyma (“Galaxy”), filed with the U.S. Coast

Guard's Administrative Law Judge Docketing Center an appeal of a temporary denial order ("TDO") issued by the Assistant Secretary for Export Enforcement on June 6, 2008, pursuant to Section 766.24 of the Export Administration Regulations ("Regulations")¹. The relevant facts are as follows. The Bureau of Industry and Security's (BIS) Office of Export Enforcement had obtained information that a Boeing 747 aircraft was about to be re-exported to Iran without the proper U.S. Government authorization. Based on the information before him, the Assistant Secretary issued an *ex parte* Order on June 6, 2008, temporarily denying for 180 days the export privileges of Galaxy, as well as Iran Air (of Tehran, Iran), and Ankair (of Istanbul, Turkey), in accordance with Section 766.24 of the Regulations. The Order was published in the *Federal Register* on June 17, 2008, (73 Fed. Reg. 34249). On July 10, 2008, the Assistant Secretary issued a modified Order that expanded the scope of the denial as to Ankair, but did not modify the TDO as to Galaxy or Iran Air. The modified Order was likewise published in the *Federal Register* on July 22, 2008, (73 Fed. Reg. 42544).

On August 27, 2008, the U.S. Coast Guard's Administrative Law Judge Docketing Center received a one-page letter from Galaxy appealing the TDO and requesting that it be withdrawn as to Galaxy. Galaxy filed no other materials or information to substantiate its request (Section 766.24(e)(2)-(3) of the Regulations). The appeal did not indicate that it had been served on the BIS as required by Section 766.24(e)(3) of the Regulations. After the Docketing Center confirmed that the appeal had not been served, a copy was sent to BIS by facsimile on September 2, 2008. On September 11, 2008, BIS filed a written response seeking a

¹ The Regulations issued pursuant to the Export Administration Act of 1979, as amended. 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 extended by the Notice of July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

continuation of the TDO, along with multiple exhibits supporting its request. Ankair and Iran Air have not appealed the TDO.

On September 16, 2008, following a review of the entire record before him, the ALJ found in his Recommended Decision and Order that "BIS has met the standard contained in Section 766.24 of the Regulations and has introduced evidence that the potential violations under investigation are significant, deliberate and covert, and not merely technical or negligent." He further found that it is "reasonable to believe that the temporary denial order is required in the public interest to prevent an imminent violation" of the export control laws and regulations. The ALJ recommended that the TDO issued on June 6, 2008, and modified on July 10, 2008, be affirmed and Galaxy's appeal be denied.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law made by the ALJ in his Recommended Decision and Order.

ACCORDINGLY, IT IS ORDERED,

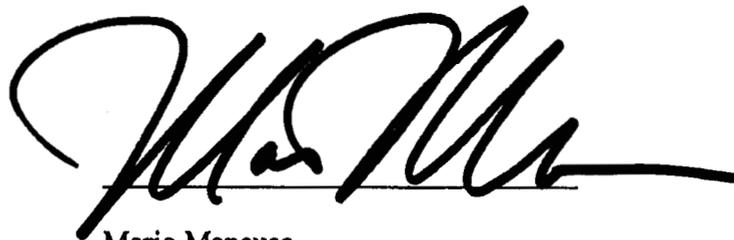
FIRST, the Temporary Denial Order issued by the Assistant Secretary for Export Enforcement on June 6, 2008, and modified on July 10, 2008, is affirmed, and this appeal is denied.

SECOND, the Appellants are advised that they may appeal to the United States Court of Appeals for the District of Columbia in accordance with Section 766.24(g) of the Regulations and 50 U.S.C. app. § 2412(d)(3).

THIRD, this Final Decision and Order shall be served on Appellants and on BIS and shall be published in the *Federal Register*. In addition, the ALJ's Recommended Decision and Order, except for Section IV relating to the Recommended Order, shall also be published in the *Federal Register*.

This Order, which constitutes the final agency action with regard to this appeal, is effective upon publication in the *Federal Register*.

Dated: 9/19, 2008.

A large, stylized handwritten signature in black ink, appearing to read 'M. Mancuso', written over a horizontal line.

Mario Mancuso
Under Secretary of Commerce
For Industry and Security



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

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2008, I caused a copy of the foregoing DECISION AND ORDER signed by Mario Mancuso, Under Secretary of Commerce for Industry and Security, in the matter of Galaxy Aviation Trade Company Ltd. (Docket No.: 08-BIS-TDO) to be sent via FedEx or mailed firstclass, postage pre-paid to:

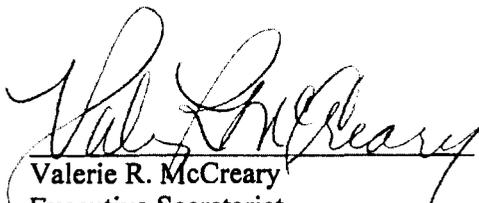
Galazy Aviation Trade Company Ltd. and
Hooshang Seddigh
15 Moreland Court
Lyndale Avenue
Finchley Road
London, UK NW2 2PJ
(By First Class Mail, Postage Prepaid)

Hamid Shakeri Hendi
5th Floor
23 Nafisi Avenue
Shahrak Ekbatan, Karaj Special Road
Tehran, Iran
(By First Class Mail, Postage Prepaid)

Hossein Jahan Peyma
2/1 Makran Cross
Heravi Square
Moghan Avenue, Pasdaran Cross
Tehran, Iran
(By First Class Mail, Postage Prepaid)

ALJ Docketing Center
Attention: Hearing Docket Clerk
40 S. Gay Street, Room 412
Baltimore, Maryland 20212-4022
(By Facsimile and Federal Express)

I hereby also certify that on September 23, 2008, a copy of the same foregoing DECISION AND ORDER was delivered to Gregory Michelsen, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H-3839, 14th and Constitution Avenue, NW, Washington, DC 20230.


Valerie R. McCreary
Executive Secretariat



UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
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Heravi Square)
Moghan Ave, Pasdaran Cross)
Tehran, Iran)
)
)
Respondents/Appellants)
)

ALJ RECOMMENDED
DECISION AND ORDER

I. PRELIMINARY STATEMENT

This Recommended Decision and Order is made in regard to a recent Temporary Denial Order (“TDO”) wherein the Assistant Secretary of Export Enforcement (“Assistant Secretary”) of the Bureau of Industry and Security, United States Department of Commerce (“BIS”) denied export privileges to Respondents Galaxy Aviation Trade Company Ltd., Hooshang Seddigh,

Hamid Shakeri Hendi and Hossein Jahan Peyma (collectively, "Galaxy" or the "Galaxy Respondents"). Specifically, the Assistant Secretary issued the TDO on June 6, 2008 pursuant to Section 766.24 of the Export Administration Regulations ("EAR" or the "Regulations"),¹ and modified said TDO as to Respondent Ankair on July 10, 2008. The case involves allegations that Respondents were likely to effectuate a re-export of a Boeing 747 to Iran.

In June 2008, BIS's Office of Export Enforcement ("OEE") presented evidence to the Assistant Secretary seeking a TDO in accordance with Section 766.24 of the Regulations, in order to prevent the imminent re-export, in violation of Section 746.7 of the Regulations, of a Boeing 747 (or any other U.S.-origin aircraft) to Iran without U.S. Government authorization.

Based on the evidence presented by OEE, the Assistant Secretary issued an *ex parte* Order on June 6, 2008, temporarily denying for 180 days the export privileges of the Galaxy Respondents, as well as of Iran Air (of Tehran, Iran), and Ankair (of Istanbul, Turkey). The Order was published in the Federal Register on June 17, 2008 (73 Fed.Reg. 34249). On July 10, 2008, the Assistant Secretary issued a modified Order that expanded the scope of the denial as to Respondent Ankair, but did not modify the TDO as to the Galaxy Respondents or Respondent Iran Air.² The modified Order was published in the Federal Register on July 22, 2008 (73 Fed.Reg. 42544).

On August 27, 2008, the U.S. Coast Guard's Administrative Law Judge Docketing Center ("ALJ Docketing Center") received a one-page letter from Galaxy Respondents appealing

¹ The Regulations issued pursuant to the Export Administration Act of 1979, as amended. 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 extended by the Notice of July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

² The modified Order was served on the TDO respondents and was also published in the Federal Register on July 22, 2008 (73 Fed.Reg. 42544). Respondents Ankair and Iran Air have not appealed the TDO and are not parties to this appeal proceeding.

the TDO and requesting that the TDO be withdrawn as to the Galaxy Respondents. This letter did not include a certificate of service or other indication that the Galaxy Respondents had served it on BIS as required by Section 766.24(e)(3) of the Regulations. On September 2, 2008, the ALJ Docketing Center contacted the Office of Chief Counsel for Industry and Security at the Department of Commerce, which represents BIS in administrative matters pending before the ALJs. After the Office of Chief Counsel confirmed that it had not been thus served with the appeal, the ALJ Docketing Center forwarded a copy thereof on September 2, 2008. Exhibit 12. On September 11, 2008, BIS filed a written response with sixteen (16) exhibits to Galaxy's appeal seeking a continuation of the TDO. On September 15, 2008, BIS filed a proposed Recommended Decision and Order. ALJ Exhibit 1. This Recommended Decision and Order will not address the TDO or modified TDO with respect to Ankair and Iran Air as neither has appealed.

II. RECOMMENDED FINDINGS OF FACT

Based upon the record before me, I make the following findings of fact:

1. The TDO was issued by the Assistant Secretary of Commerce for Export Enforcement on June 6, 2008. It was published in the Federal Register on June 17, 2008 (73 Fed.Reg. 34249). A modified Order expanding the scope of the denial as to Respondent Ankair was issued on July 10, 2008, and was also served and published in the Federal Register on July 22, 2008 (73 Fed.Reg. 42544). Exhibits 1 and 2.
2. Respondents Galaxy Aviation Trade Company Ltd., Hooshang Seddigh, Hamid Shakeri Hendi and Hossein Jahan Peyma filed with the ALJ Docketing Center a one-page letter appealing the TDO and denying any involvement in the purchase of a Boeing 747 from Ankair. Exhibit 12.
3. On June 6, 2008, prior to the issuance of the TDO, Yavuz Cizmeci, the Chairman/Chief Executive Officer of ACT Airlines and Chief Executive Officer of Respondent Ankair, reported to a BIS special agent that Ankair owned a Boeing 747, tail number TC-AKZ, manufacturer serial number 24134, and that that aircraft was going to be sold to Galaxy Aviation of the United Kingdom. Exhibit 7.
4. Galaxy Aviation Trade Company Ltd. corporate records listed Hooshang Seddigh, Hamid Shakeri Hendi, and Hossein Jahan Peyma as its shareholders on June 6, 2008, which was the date the TDO was imposed. Exhibit 9.

5. Hamid Shakeri Hendi has an address in the same building as Iran Air's Headquarters in Tehran, Iran. Hossein Jahan Peyma also has an address in Tehran, Iran. Exhibits 8 and 9.
6. Galaxy Aviation Trade Company Ltd. corporate records listed Sam David Mahjoobi of the U.K. as a corporate officer of Galaxy on June 6, 2008, which was the date the TDO was imposed. Exhibit 9.
7. BIS is in possession of a document titled "Aircraft Sale and Purchase Agreement" involving the sale of the Boeing 747, tail number TC-AKZ, manufacturer serial number 24134. Ankair is listed as the Seller and Sam David Mahjoobi is listed as the Buyer. Paragraph 1.1 of the agreement states "Delivery or Delivery Date means the dates beginning 20 June 2008 and ending 27 June 2008 on which the Aircraft, Engines, and Documents are delivered to Buyer in Istanbul and the Bill of Sale for the Aircraft is executed and submitted to the Buyer by Seller." The document is signed and initialled on each page by the respective parties to the transaction. Exhibit 15.
8. Photographs dated June 27, 2008, from the website iraviation.com show the Boeing 747, tail number TC-AKZ in Tehran, Iran on that date. Exhibit 11.
9. The Aero Transport Data Bank shows the operational history of a Boeing 747, Manufacturer's serial number 24134 as now being operated by Iran Air on June 27, 2008 and lists a new Iranian tail number TC-AKZ. Exhibit 10.
10. The Boeing 747 aircraft at issue is of U.S.-origin and is subject to the Export Administration Regulations. It is classified under Export Control Classification Number 9A991.b on the Commerce Control List and is controlled for anti-terrorism reasons, and at the time of the alleged violations required U.S. Government authorization for export or re-export to Iran. Exhibit 4; 15 C.F.R. Part 774, Supp. 1; 15 C.F.R. § 746.7.
11. A United States Department of Treasury records search revealed that Galaxy Respondents did not obtain U.S. Government authorization for the re-export to Iran of this U.S.-origin aircraft. Exhibit 5.
12. A record from the Republic of Turkey Ministry of Transport shows that this Boeing 747 aircraft was deregistered in Turkey effective June 27, 2008. Exhibit 13
13. BIS Assistant Director of the Office of Export Enforcement declared that Respondents informed Turkish civil aviation authorities on or about June 27, 2008 that the aircraft's registration was being switched to Pakistan. See Exhibit 13; Exhibit 14, at ¶ 4.
14. BIS Assistant Director of the Office of Export Enforcement declared that Pakistan Civil Aviation Authorities have informed the U.S. Government that this Boeing 747 aircraft was never registered (or de-registered) in Pakistan. Exhibit 14, at ¶ 5.

III. DISCUSSION

A. Standard for BIS's Issuance of Temporary Denial Order

The Assistant Secretary for Export Enforcement ("Assistant Secretary") may issue a TDO on an *ex parte* basis "upon a showing by BIS that the order is necessary in the public interest to prevent an imminent violation of the EAA, the EAR, or any order, license or authorization issued thereunder."³

With regard to whether a violation may be "imminent," the Regulations provide that:

A violation may be 'imminent' either in time or in degree of likelihood. To establish grounds for the temporary denial order, BIS may show either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations. To indicate the likelihood of future violations, BIS may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent, and that it is appropriate to give notice to companies in the United States and abroad to cease dealing with the person in U.S.-origin items in order to reduce the likelihood that a person under investigation or charges continues to export or acquire abroad such items, risking subsequent disposition contrary to export control requirements. Lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.⁴

BIS may therefore show that a violation is about to occur or that the facts and circumstances of the matter under investigation demonstrate a reasonable belief in the likelihood of a future violation or violations.⁵ Consequently, a TDO may be issued and maintained in force, when, as in this case, matter is still under investigation by BIS.

³ 15 C.F.R. § 766.24(b)(1).

⁴ 15 C.F.R. § 766.24(b)(3).

⁵ *Id.*

B. Appeal Procedure for Temporary Denial Order

Once a TDO has been issued or renewed, any respondent may appeal the issuance or renewal of the TDO at any time to an administrative law judge (“ALJ”).⁶ The filing of the appeal shall stay neither the effectiveness of the TDO nor any application for renewal.⁷

Section 766.24(e)(3) states that a “full written statement in support of the appeal must be filed in support of the appeal together with appropriate evidence, and be simultaneously served on BIS, which shall have seven [working] days from receipt to file a reply.”⁸ Section 766.24(e)(4) provides, in turn, that within 10 working days after the appeal is filed, the ALJ is to submit a Recommended Decision to the Under Secretary for Industry and Security (“Under Secretary”) addressing whether the issuance of the TDO should be affirmed, modified, or vacated.⁹

As discussed above, an appellant must simultaneously serve a copy of any appeal on BIS and the ALJ docketing center and thus, no appeal is perfected unless or until BIS is served with a copy thereof. That is to say that no timeline can begin to run until BIS has been served with the appeal. In the instant case, Galaxy served the ALJ Docketing Center with its appeal on August 27, 2008, but there was no evidence it ever served a copy thereof on BIS. On September 2, 2008, the ALJ Docketing Center served a copy of Galaxy’s appeal on BIS after confirming that BIS in fact had not yet been served. Exhibit 12.

⁶ 15 C.F.R. § 766.24 (e)(1)(i).

⁷ 15 C.F.R. § 766.24 (e)(1)(ii).

⁸ The word “working” was inserted because intermediate Saturdays, Sundays, and legal holidays are excluded from the computation of time when the period of time prescribed or allowed is seven days or less. 15 C.F.R. § 766.5(e).

⁹ 15 C.F.R. § 766.24(e)(4); see also 50 U.S.C. app. § 2412(d)(2).

For the purpose of this case, the appeal will be treated as being perfected on September 2, 2008 when BIS was served a copy thereof. Therefore, BIS's reply brief filed on September 11, 2008 was filed within seven (7) working days of the appeal and was thus timely.

C. Temporary Denial Order Necessary in the Public Interest to Prevent Imminent Violation

After careful consideration of the entire record, I find that the TDO was necessary in the public interest to prevent an imminent violation of the EAA, the EAR, or an order, license, or authorization thereunder. There was and is sufficient reason to believe in the likelihood of a violation and the Assistant Secretary's TDO should be affirmed.

1. BIS's Showing

In June 2008, as part of an on-going investigation, BIS obtained evidence that Iran Air, an Iranian government owned airline, was seeking to acquire aircraft, including a Boeing 747 cargo plane from Turkey, through a third party in the United Kingdom ("U.K."). Exhibit 7, at ¶ 6. Iran, a state-sponsor of terrorism, is the subject of a broad U.S. trade embargo.¹⁰ On June 6, 2008, prior to the issuance of the TDO, BIS special agents interviewed HBK Investments ("HBK"), which in turn contacted ACT Airlines ("ACT") of Istanbul, Turkey concerning ACT's potential sale of a Boeing 747 to Iran. Exhibit 7, at ¶ 6. HBK owns 17.5% of ACT. Exhibit 7, at ¶ 5. ACT's Chairman and/or Chief Executive Officer ("CEO") Yavuz Cizmeci -- who also is CEO of Respondent Ankair -- denied that ACT owned the plane and stated that it actually was owned by Ankair and that Ankair was going to sell the aircraft to Galaxy Aviation of the U.K. Exhibit 7, at ¶¶ 4-6; Exhibit 14, at ¶ 3. Notably also, BIS did not raise the name Galaxy Aviation with HBK during the initial discussion; rather, HBK first raised Galaxy Aviation's name with BIS based on the information provided by Ankair and ACT. Exhibit 7, at ¶ 6.

¹⁰ See Executive Orders 12957 (March 16, 1995), 12959 (May 6, 1995), and 13059 (August 19, 1997).

Further examination of Galaxy's corporate records revealed to BIS that Respondent Hamid Shakeri Hendi, one of Galaxy's three listed shareholders, has an address in the same building as Respondent Iran Air's headquarters in Tehran, Iran. Exhibit 8 & 9. Moreover, another of Galaxy's principal shareholders, Respondent Hossein Jahan Peyma, also has a Tehran, Iran address. See Exhibits 8 and 9.

BIS's investigation has developed additional evidence indicating that the transaction which the TDO was originally issued to prevent between Ankair and Galaxy has actually occurred. Specifically, BIS has presented evidence that the Boeing 747 in question was re-exported to Iran after issuance, service, and publication of the TDO in question in this case. BIS has obtained a copy of contractual documents indicating that Ankair was to deliver the 747 between June 20 and June 27, 2008. Exhibit 15.

Moreover, the Aero Transport Data Bank,¹¹ a worldwide fleet list of all airlines operating transport aircraft, indicates that the Boeing 747 referenced in the TDO left Turkey and has not only been re-exported to Iran, but also has been issued a new Iranian tail number. Exhibit 10; Exhibit 14, at ¶ 6. BIS has submitted evidence that this occurred subsequent to the issuance and publication of the TDO at issue in this case. *Id.* In addition, consistent with the delivery period set forth in the contract, a plane-spotter photo was posted to the aviation website iraviation.com that shows the aircraft on the ground in Tehran, Iran on June 27, 2008, at precisely the end of delivery period set forth in the contract. Exhibit 11. There is further evidence that this same day, June 27, 2008, the Turkish Ministry of Transport sent a letter to its counterparts at the Pakistan General Civil Aviation Authority, informing them that the aircraft was de-registered in Turkey effective that date. Exhibit 13; Exhibit 14, at ¶ 4. This letter was apparently sent to the Pakistan

¹¹ References in BIS's opposition brief to the "Aero Transport Database" should instead read "Aero Transport Data Bank."

civil aviation authorities because the Turkish authorities had been informed that the plane's new registration would be in Pakistan. See Id. The Pakistan General Civil Aviation Authority has now further informed the U.S. Embassy in Pakistan that the aircraft has never been registered (or de-registered) in Pakistan. Exhibit 14, at ¶ 5.

Furthermore, BIS expresses a concern and belief that two additional U.S.-origin aircraft¹² under the control of Ankair will be or have recently been re-exported to Iran according to the Aero Transport Data Bank. See Exhibit 16.

2. Respondents' Appeal

In their appeal, the Galaxy Respondents assert that "the BIS decision was based on a mere prediction that was never true and has not happened at all." Exhibit 12. Respondents did not present any evidence or exhibits in support of its written appeal statement.

3. Analysis of Potential Violations

The aircraft is a listed item on the Commerce Control List under Export Control Classification Number ("ECCN") 9A991.b and Iran is a state-sponsor of terrorism and is subject of a broad U.S. trade embargo.¹³ Therefore, the re-export to Iran of the aircraft would require U.S. Government Authorization in accordance with Section 746.7 of the Regulations. Exhibit 4. There is no evidence in the record to suggest and Respondents do not assert that a re-export license was ever applied for or received by any of the Galaxy Respondents or any other person, including Galaxy corporate officer Mahjoobi. On the contrary, a US Department of Treasury records search reveals that Galaxy never obtained any such license. Exhibit 5. Similarly, there is no evidence in the record to suggest and Respondents do not assert that a license was applied

¹² The two aircraft are MD 80's with tail numbers TC-AKL and TC-AKN.

¹³ See Executive Orders 12957 (March 16, 1995), 12959 (May 6, 1995), and 13059 (August 19, 1997).

for or received by Iran Air or Ankair or Ankair's parent, Dunyaya Bakis Hava Tasimaciligi A.S., also known as ("a/k/a") Dunyaya Bakis Air Transportation, Inc. ("DBHT"). Exhibit 5. A similar US Department of Treasury records search reveals that no such license was obtained with respect to these individuals. Exhibit 5.

Nevertheless and as discussed above, the unauthorized re-export of a Boeing 747 to Iran will likely occur or occur again in violation of the requirements of Section 746.7 of the Regulations. It is clear that this would constitute a significant violation of the Regulations – something more than a technical or negligent infraction. Furthermore, there is sufficient reason to believe that Respondents took deliberate actions here which further support the possibility of imminent future violations. This, together with BIS's specific concern that two additional U.S.-origin aircraft under the control of Ankair will be or have recently been re-exported to Iran, and with Respondent's lack of appropriate evidence to support its written appeal further substantiates the public need to affirm the Assistant Secretary's TDO. Exhibit 16.

III. CONCLUSION

I hereby find that BIS has met the standard required by Section 766.24 of the Regulations and has introduced evidence that the potential violations under investigation are significant, deliberate and covert, and not merely technical or negligent. It was and is reasonable to believe that the temporary denial order is required in the public interest to prevent an imminent violation of the Act, the Regulations, or any order, license or other authorization issued under the Act.

Therefore, I recommend that TDO issued by the Assistant Secretary on June 6, 2008, and modified on July 10, 2008 be affirmed and Respondents' corresponding appeal be denied.

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 Section 766.24 of the Regulations.¹⁴

[REDACTED SECTION]

Done and Dated, September 16, 2008,
New York, NY


The Honorable Walter J. Brudzinski
Administrative Law Judge

¹⁴ See 15 C.F.R. § 766.24(e) (indicating that within five working days after receipt of a recommended decision concerning a TDO appeal, the Under Secretary is to issue a written order affirming, modifying, or vacating the recommended decision.

ATTACHMENT A. Exhibit Lists

A. BIS Exhibits 1-16:

1. June 6, 2008 Order Temporarily Denying Export Privileges
2. July 10, 2008 Order Modifying Temporary Denial of Export Privileges
3. June 25, 2008 Article Entitled "Iran Air Drops Plans to Buy Russian Aircraft Over Cost Fears
4. September 10, 2008 Letter to Mr. Thomas Madigan, Director Office of Export Enforcement
5. August 5th and August 25th Letters Regarding US Department of Treasury Records Search
6. August 7, 2008 Letter to Mr. Hamit Kahveci, World Focus Airlines
7. September 10, 2008 Declaration of Tracy E. Martin
8. Excerpt of IranAir website
9. Current Appointments Report for: GALAXY AVIATION TRADE COMPANY LTD
10. Airframe History of B.747 msn 24134
11. Photographs of airplane
12. July 25, 2008 Letter to Office of the Administrative Law Judge from Galaxy Aviation Trade Company Ltd
13. June 27, 2008 Letter to Director of General Civil Aviation Authority Pakistan from the Republic of Turkey Ministry of Transport
14. September 11, 2008 Declaration of John Sonderman
15. May 20, 2008 Aircraft Sale and Purchase Agreement
16. Aero Transport Data Bank (world wide fleet list) publicly available at <http://www.aertransport.org/>

B. Respondents did not file any exhibits.

C. ALJ Exhibit 1:

1. BIS's Recommended Decision and Order Received September 16, 2008.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing **RECOMMENDED DECISION AND ORDER** as indicated below to the following person(s):

Mario Mancuso
Under Secretary of Commerce for Industry and Security
U.S. Department of Commerce, Room H-3892
14th Street & Constitution Avenue, N.W.
Washington, D.C. 20230
Fax: 202-482-2387
(By Facsimile and Federal Express)

Gregory Michelsen, Attorney-Advisor
Attorney for Bureau of Industry and Security
Office of Chief Counsel for Industry and Security
U.S. Department of Commerce, Room H-3839
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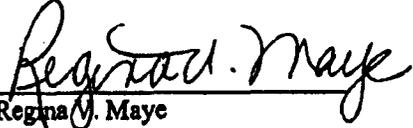
Galaxy Aviation Trade Company Ltd. and
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Moghan Ave., Pasdaran Cross
Tehran, Iran
(By First Class Mail, Postage Prepaid)

ALJ Docketing Center
Attention: Hearing Docket Clerk
40 S. Gay Street, Room 412
Baltimore, Maryland 21202-4022
Fax: (410) 962-1746
(By Facsimile and Federal Express)

Done and dated this 16th day of September, 2008 at
New York, New York


Regina J. Maye
Paralegal Specialist to the
HON. WALTER J. BRUDZINSKI
Administrative Law Judge