

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

In the Matter of:)
)
NEAZ Trading Corporation)
)
612 Business Centre) 05-BIS-23
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”).

In a charging letter issued on December 15, 2005, the Bureau of Industry and Security (“BIS”) alleged that Respondent, NEAZ Trading Corporation, committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008) (“Regulations”)),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).²

The charging letter included a charge that was based on actions taken by NEAZ to evade licensing requirements governing exports of items subject to the Regulations, specifically, the export of items subject to the Regulations to a Pakistani organization listed on BIS’s Entity List. Specifically, Charge One alleged as follows:

¹ The charged violations occurred during the 2002 period. The Regulations governing the violations at issue are found in the 2000 - 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000 - 2002)). The 2008 Regulations establish the procedures that apply to this matter.

² 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 15, 2007 (72 FR 46,137 (August 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

On or about April 27, 2002, NEAZ, through its operations specialist, took actions with the intent to evade the U.S. Government's licensing requirements for exports to Pakistan. Specifically, NEAZ 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 4A994), from the United States to the Karachi Nuclear Power Plant ("KANUPP") in Karachi, Pakistan via the United Arab Emirates (UAE). NEAZ provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The purpose of NEAZ'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, NEAZ committed one violation of Section 764.2(h) of the Regulations.³

In accordance with Section 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 NEAZ at its last known address, which is in Pakistan. Although BIS did not receive a signed return mail receipt for the letter, the charging letter was delivered no later than on or about February 16, 2006. On or about that date, Yasmin Ahmed, NEAZ's Chief Operating Officer and the person at NEAZ to whose attention the NEAZ charging letter was addressed, telephoned the BIS attorney named in the charging letter 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 Yasmin Ahmed (Docket No. 05-BIS-24). Ms. Ahmed had possession of the NEAZ charging letter by the date of that telephone call; otherwise, she would not have known the name or had direct contact information for BIS's attorney or been able to discuss the charging letter with BIS. To

³ 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.

date, NEAZ has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

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 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 NEAZ had been served with the charging letter, BIS filed a Motion for Default Order that was received by the ALJ on July 15, 2008. This Motion for Default Order recommended that NEAZ be denied export privileges under the Regulations for a period of seven years.

On September 16, 2008, based on the record before him, the ALJ issued a RDO in which he found NEAZ in default, found the facts to be as alleged in Charge One of the charging letter, and held that NEAZ had committed the one violation of Section 764.2(h) of the Regulations. The ALJ also recommended the penalty of denial of NEAZ’s export privileges for seven years.

The ALJ’s RDO, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ’s findings of fact and conclusions of law. 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*, NEAZ Trading Corporation, 612 Business Centre, Mumtaz Hasan Road, Off I.I. Chundrigar Road, Karachi, Pakistan, and when acting for or on behalf of NEAZ Trading Corporation, its 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 Section 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*. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, 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:

10/14/08



Mario Mancuso
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:)
)
Yasmin Ahmed)
)
612 Business Centre) 05-BIS-24
Mumtaz Hasan Road)
Off I.I. Chundrigar Road)
Karachi, Pakistan)
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Respondent.)

RECOMMENDED DECISION AND ORDER

On December 15, 2005, the Bureau of Industry and Security, U.S. Department of Commerce (BIS), issued a charging letter initiating this administrative enforcement proceeding against Yasmin Ahmed.¹ The charging letter alleged that Yasmin Ahmed committed four 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 § 766.7 of the Regulations, BIS moved for the issuance of an Order of Default against Yasmin Ahmed because Ms. Ahmed

¹ Yasmin Ahmed was also known as Fatimah Mohammad and Yasmin Ahmed Tariq during the period in which the charged violations occurred.

² The charged violations occurred during the 2000 - 2002 period. The Regulations governing the violations at issue are found in the 2000 - 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000 - 2002)). The 2008 Regulations establish the procedures that apply to this matter.

³ 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)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under IEEPA.

failed to file an answer to the allegations in the charging letter issued by BIS within the time period required by the Regulations.

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 default if a respondent fails to properly file a timely answer to a 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 Section 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. 15 C.F.R. § 766.6 (2008).

B. Service of the Notice of Issuance of Charging Letter

In this case, BIS served notice of issuance of the charging letter in accordance with §766.3(b)(1) of the Regulations by sending a copy of the charging letter by registered mail to Yasmin Ahmed at her last known address on December 15, 2005. BIS did not receive a return mail receipt for the letter. To date, Respondent has failed to file an answer to the charging letter as required by section 766.6 of the Regulations. On or about February 16, 2006, Yasmin Ahmed, telephoned the BIS attorney named in the charging letter. Since Ms. Ahmed contacted BIS on February 16, 2006, Ms. Ahmed must have been in possession of the Charging Letter or she would not have known the BIS attorney's contact information. Clearly 30 days has passed since Ms. Ahmed received the charging letter. Accordingly, Yasmin Ahmed is in default.

C. Summary of Violations Charged

The charging letter filed and served in this matter included a total of four charges based on Yasmin Ahmed's actions as a sales representative of Advance Technical System (ATS) of Dubai, United Arab Emirates (UAE), in connection with shipments of U.S. origin items to Pakistan. Charge 1 of the charging letter alleged that on or about December 18, 2000, Yasmin Ahmed caused the filing of a false statement with the U.S. Government in connection with the export of radar parts, items subject to the Regulations,⁴ from the United States to Pakistan via the UAE. Yasmin Ahmed submitted an end-user certificate, DSP Form 83,⁵ to the exporter that falsely stated that the Bangladesh Air Force was the end-user of the parts. The exporter relied on the end-user information submitted by Yasmin Ahmed in completing a Shipper's Export Declaration (SED) for the export of the parts that falsely stated that the country of ultimate destination was Bangladesh. The actual country of ultimate destination was Pakistan. By providing false end-user information to the exporter, Yasmin Ahmed committed one violation of Section 764.2(g) of the Regulations.

Second, the charging letter alleged that on or about April 16, 2002, Yasmin Ahmed attempted violate the Regulations by submitting a false end-user certificate to the exporter in connection with the export of radar parts, items subject to the Regulations, from the United States to Pakistan via the UAE. The certificate stated that the Bangladesh Air Force was the end-user of the radar parts. The actual country of ultimate destination was Pakistan. The exporter relied on the end-user information submitted by Yasmin Ahmed in completing an airway bill

⁴ These parts are designated as "EAR 99," a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁵ The DSP Form 83, "Nontransfer and Use Certificate," is used by the State Department in connection with the export of munitions items subject to the State Department's export controls. In this instance, the Respondent used it to conceal the end-user of an item that was subject to the EAR.

listing Bangladesh as the ultimate destination of the parts. In completing the SED for the export based on a consultation of the airway bill, the freight forwarder incorrectly listed UAE as the country of ultimate destination. By providing false end-user information to the exporter, Yasmin Ahmed attempted to cause a violation of the Regulations, namely, the filing of a SED with false end-user information, and thereby violated Section 764.2(c) of the Regulations.

Charge 3 of the charging letter alleged that in connection with the December 18, 2000, transaction (described in Charge 1 of the charging letter), Yasmin Ahmed took actions with the intent to evade the provisions of the Regulations. Specifically, she took actions, including but not limited to, obtaining false signatures from a purported end-user who was actually a representative of ATS for inclusion on an end-user certificate submitted to an exporter in connection with the export of radar parts, items subject to the Regulations, from the United States to Pakistan via the UAE. The purpose of securing the false signatures was to prepare a false end-user certificate concealing the actual destination for the radar parts, Pakistan. The exporter relied on the information provided in the end-user certificates in preparing a SED that falsely stated the country of ultimate destination as Bangladesh. In so doing, Yasmin Ahmed committed one violation of Section 764.2(h) of the Regulations.

Finally, in connection with the April 16, 2002, transaction described in Charge 2 of the charging letter, Yasmin Ahmed took actions with the intent to evade the provisions of the Regulations. Specifically, Yasmin Ahmed took actions, including but not limited to, obtaining false signatures from a purported end-user who was actually a representative of ATS for inclusion on an end-user certificate submitted to an exporter in connection with the export of radar parts, items subject to the Regulations, from the United States to Pakistan via the UAE. The purpose of obtaining the false signatures was to prepare a false end-user certificate

concealing the actual destination for the radar parts, Pakistan. The exporter relied on the information provided in the end-user certificates in preparing a SED which falsely stated the country of ultimate destination as Bangladesh. In so doing, Yasmin Ahmed committed one violation of Section 764.2(h) of the Regulations.

D. Penalty Recommendation

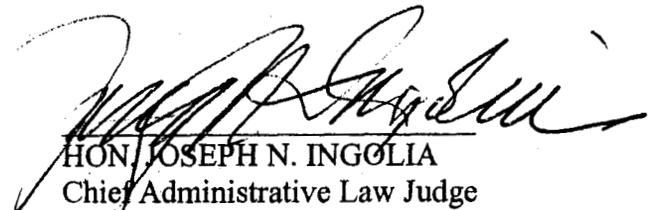
[REDACTED SECTION]

[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).



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

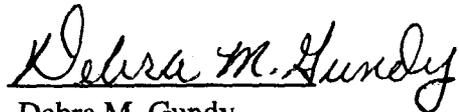
Done and Dated 16 September, 2008
Baltimore, Maryland

Certificate of Service

I hereby certify that I have served the foregoing RECOMMENDED DECISION AND ORDER upon the following party in this proceeding at the addresses indicated below by First Class Mail to:

Parvin R. Huda, Senior Counsel
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, DC 20230
(202) 482-5301

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



Debra M. Gundy
Paralegal Specialist
Administrative Law Judges Office
U.S. Coast Guard

Dated on September 18, 2008
Baltimore, Maryland

DEC 15 2005



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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

NEAZ Trading Corporation
612 Business Centre
Mumtaz Hasan Road
Off I.I. Chundrigar Road
Karachi, Pakistan

Attention: *Yasmin Ahmed*
Chief Financial Officer

Dear Ms. Ahmed:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that NEAZ Trading Corporation ("NEAZ") located in Karachi, Pakistan, has committed two 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 NEAZ 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)

¹ 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.

² 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, NEAZ, through its operations specialist, took actions with the intent to evade the U.S. Government's licensing requirements for exports to Pakistan. Specifically, NEAZ 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 4A994³), from the United States to the Karachi Nuclear Power Plant ("KANUPP") in Karachi, Pakistan via the UAE. NEAZ provided shipping information representing that the consignee was in the UAE but omitting the final destination for the items. The purpose of NEAZ'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, NEAZ 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, NEAZ, through its operations specialist, took actions with the intent to evade the U.S. Government's paperwork filing requirements for the export of items to Pakistan. Specifically, NEAZ 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. NEAZ 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 NEAZ'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, NEAZ committed one violation of Section 764.2(h) of the Regulations.

Accordingly, NEAZ 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:

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

The maximum civil penalty allowed by law of \$11,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

NEAZ is further notified that it is entitled to an agency hearing on the record if NEAZ files a written demand for one with its answer. (Regulations, Section 766.6). NEAZ 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 provide for settlement without a hearing. (Regulations, Section 766.18.) Should NEAZ have a proposal to settle this case, NEAZ or its representative should transmit it to 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, NEAZ'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 NEAZ's answer must be served on BIS at the following address:

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

⁴ See 15 C.F.R. § 6.4(a)(2).

NEAZ Trading Corporation

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Parvin Huda is the attorney representing BIS in this case. Any communications that NEAZ 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