

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

In the Matter of:

Luis Fernando Gracia
46 E. Jackson Street
Nogales, Arizona 85621

ORDER RELATING TO
LUIS FERNANDO GRACIA

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Luis Fernando Gracia, of Nogales, Arizona (“Gracia”), of its intention to initiate an administrative proceeding against Gracia pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ through the issuance of a Proposed Charging Letter to Gracia that alleges that Gracia committed one violation of the Regulations.² Specifically:

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2022). The charged violation occurred in 2018. The Regulations governing the violation at issue are found in the 2018 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2022 Regulations set forth the procedures that apply to this matter.

Charge 1 **15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation of the Regulations**

On one occasion on or about August 28, 2018, Gracia, who at all times pertinent hereto was the owner and operator of GE Equipos de Seguridad, a company located in Nogales, Arizona and in Sonora, Mexico, engaged in conduct prohibited by the Regulations. Specifically, Gracia caused, aided, or abetted an attempted export from the United States to Mexico of ballistic helmets and rifle scopes (the “items”) without the required BIS license. At all times pertinent to the transaction at issue, these items were subject to the Regulations, classified on the Commerce Control List (the “CCL”) under Export Control Classification Numbers (“ECCNs”) 0A979 and 0A987, respectively, and controlled for Crime Control (CC) reasons. The items were valued in total at approximately \$4,329. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Mexico.

Gracia ordered the items from a supplier located in Los Angeles, California. On or about August 28, 2018, Gracia provided the items to an individual located in Nogales, Arizona, to transport to Mexico. U.S. Customs and Border Protection officers seized the items on that day during an inspection of the individual’s vehicle at the city’s Port of Entry to Mexico. Gracia intended to receive the items in Sonora, Mexico, where his company has operations, for resale to Mexican customers. At no time was the required BIS license obtained for the contemplated export of the items to Mexico.

With respect to the ballistic helmets at issue in this matter, Gracia represented in a public filing on June 29, 2021, that the representative of a Mexican company had expressed interest in purchasing such helmets for local Mexican government customers. Gracia also asserted that following the seizure of the helmets as described above, he received a bid and delivery receipt from the Mexican company’s representative for the sale of the helmets to the Mexican city of Guasave. Additionally, in subsequent communications with BIS, Gracia represented that the rifle scopes were intended for sale to Mexican retailers and distributors with which he regularly conducts business.

By causing, aiding, or abetting this attempted export without the required BIS license, Gracia committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Gracia 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;

WHEREAS, Gracia admits committing the alleged conduct described in the Proposed Charging Letter; and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, for a period of two (2) years from the date of the Order, Gracia, with a last known address of 46 E. Jackson Street, Nogales, Arizona 85621, shall be made subject to a two-year denial of his export privileges under the Regulations (“denial”). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended for a two-year probationary period and shall thereafter be waived, provided that Gracia has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations, has completed an internal export controls compliance audit as described below, and has completed an export controls compliance training as described below. If Gracia commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations during the two-year suspension period under the Order, or fails to complete the internal audit or the export controls compliance training, the suspension of the denial may be modified or revoked by BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Gracia. If the suspension of the denial is modified or revoked, the activation order may also revoke any BIS licenses in which Gracia has an interest at the time of the activation order.³

SECOND, Gracia shall complete an internal audit of the export controls compliance program maintained by GE Equipos de Seguridad, which is located in Nogales, Arizona, and in Sonora, Mexico. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 2601 Main Street, Suite

³ Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA’s enactment on August 13, 2018. *See* Note 1, *supra*.

310, Irvine, California 92614-6399 (“BIS Los Angeles Field Office”). The audit shall cover the twelve (12)-month period beginning on the date of the Order, and the related report shall be due to the BIS Los Angeles Field Office no later than fifteen (15) months from the date of the Order. Said audit shall be in substantial compliance with the Export Compliance Program (ECP) sample audit module and shall include an assessment of GE Equipos de Seguridad’s compliance with the Regulations. The ECP sample audit module is available on the BIS web site at <https://www.bis.doc.gov/index.php/compliance-a-training/export-management-a-compliance/compliance>. In addition, where said audit identifies actual or potential violations of the Regulations, Gracia shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Los Angeles Field Office.

THIRD, Gracia shall complete an export compliance training on the Regulations within twelve (12) months from the date of the Order. Before he attends a compliance training course or program, Gracia shall notify the Office of Export Enforcement, Special Agent in Charge of the Los Angeles Field Office, of the course or program he has selected to attend. No later than one month after attending the compliance training course or program, Gracia shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 2601 Main Street, Suite 310, Irvine, California 92614-6399.

FOURTH, the timely completion of the audit and submission of the audit results as set forth above, and the timely completion and submission of verification of attendance at an export compliance training as set forth above, are 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 Gracia.

FIFTH, should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Gracia, for the duration of such denial order, Gracia, and when acting for or on his behalf, his successors, assigns, directors, officers, employees, representatives, or agents (hereinafter collectively referred to as “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 engaging 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 from any other activity subject to the Regulations.

SIXTH, should the suspension of the denial be modified or revoked, and a denial order be activated against Gracia, for the duration of the denial order, no person may, directly or indirectly, do any of the following:

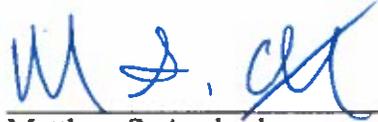
- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be 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 which 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.

SEVENTH, 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 ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

EIGHTH, 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.



Matthew S. Axelrod
Assistant Secretary of Commerce
for Export Enforcement

Issued this 1st day of August, 2022.

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

In the Matter of:

Luis Fernando Gracia
46 E. Jackson Street
Nogales, Arizona 85621

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Luis Fernando Gracia, of Nogales, Arizona (“Gracia”), 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

WHEREAS, BIS has notified Gracia of its intentions to initiate an administrative proceeding against Gracia pursuant to the Regulations;²

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232, 132 Stat. 2208 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2022). The charged violation occurred in 2018. The Regulations governing the violation at issue are found in the 2018 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2022 Regulations set forth the procedures that apply to this matter.

WHEREAS, BIS has issued a Proposed Charging Letter to Gracia that alleges that

Gracia committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation of the Regulations

On one occasion on or about August 28, 2018, Gracia, who at all times pertinent hereto was the owner and operator of GE Equipos de Seguridad, a company located in Nogales, Arizona and in Sonora, Mexico, engaged in conduct prohibited by the Regulations. Specifically, Gracia caused, aided, or abetted an attempted export from the United States to Mexico of ballistic helmets and rifle scopes (the “items”) without the required BIS license. At all times pertinent to the transaction at issue, these items were subject to the Regulations, classified on the Commerce Control List (the “CCL”) under Export Control Classification Numbers (“ECCNs”) 0A979 and 0A987, respectively, and controlled for Crime Control (CC) reasons. The items were valued in total at approximately \$4,329. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Mexico.

Gracia ordered the items from a supplier located in Los Angeles, California. On or about August 28, 2018, Gracia provided the items to an individual located in Nogales, Arizona, to transport to Mexico. U.S. Customs and Border Protection officers seized the items on that day during an inspection of the individual’s vehicle at the city’s Port of Entry to Mexico. Gracia intended to receive the items in Sonora, Mexico, where his company has operations, for resale to Mexican customers. At no time was the required BIS license obtained for the contemplated export of the items to Mexico.

With respect to the ballistic helmets at issue in this matter, Gracia represented in a public filing on June 29, 2021, that the representative of a Mexican company had expressed interest in purchasing such helmets for local Mexican government customers. Gracia also asserted that following the seizure of the helmets as described above, he received a bid and delivery receipt from the Mexican company’s representative for the sale of the helmets to the Mexican city of Guasave. Additionally, in subsequent communications with BIS, Gracia represented that the rifle scopes were intended for sale to Mexican retailers and distributors with which he regularly conducts business.

By causing, aiding, or abetting this attempted export without the required BIS license, Gracia committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, Gracia has reviewed the Proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions that could be imposed against him if the allegations are found to be true;

WHEREAS, Gracia has reviewed, with the assistance of counsel, the terms of this Agreement, 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, and the Proposed Charging Letter, and understands the terms of all three documents;

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

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

WHEREAS, Gracia admits committing the alleged conduct described in the Proposed Charging Letter; and

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

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

1. BIS has jurisdiction over Gracia, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Gracia:
 - a. For a period of two (2) years from the date of the Order, Gracia shall be made subject to a two-year denial of his export privileges under the Regulations (“denial”). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended during this two-year probationary period and shall thereafter be waived, provided that Gracia has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the

Regulations, has completed an internal export controls compliance audit as described below, and has completed an export controls compliance training as described below. If Gracia commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations during the two-year suspension period under the Order, or fails to complete the internal audit or the export controls compliance training, the suspension of the denial may be modified or revoked by BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Gracia. If the suspension of the denial is modified or revoked, the activation order may also revoke any BIS licenses in which Gracia has an interest at the time of the activation order.³

b. Should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Gracia, for the duration of such denial order, Gracia, and when acting for or on his behalf, his successors, assigns, directors, officers, employees, representatives, or agents (hereinafter collectively referred to as “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:

³ Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA’s enactment on August 13, 2018. *See* Note 1, *supra*.

- i. Applying for, obtaining, or using any license, license exception, or export control document;
 - ii. 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 engaging in any other activity subject to the Regulations; or
 - iii. 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 from any other activity subject to the Regulations.
- c. Gracia shall complete an internal audit of the export controls compliance program maintained by GE Equipos de Seguridad, which is located in Nogales, Arizona, and in Sonora, Mexico. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 2601 Main Street, Suite 310, Irvine, California 92614-6399 (“BIS Los Angeles Field Office”). The audit shall cover the twelve (12)-month period beginning on the date of the Order, and the related report shall be due to the BIS Los Angeles Field Office no later than fifteen (15) months from the date of the Order. Said audit shall be in substantial compliance with the Export Compliance Program (ECP) sample audit module and shall include an assessment of GE Equipos de Seguridad’s compliance with the Regulations. The ECP sample audit module is available on the BIS web site at

<https://www.bis.doc.gov/index.php/compliance-a-training/export-management-a-compliance/compliance>. In addition, where said audit identifies actual or potential violations of the Regulations, Gracia shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Los Angeles Field Office.

d. Gracia shall complete an export compliance training on the Regulations within twelve (12) months from the date of the Order. Before he attends a compliance training course or program, Gracia shall notify the Office of Export Enforcement, Special Agent in Charge of the Los Angeles Field Office, of the course or program he has selected to attend. No later than one month after attending the compliance training course or program, Gracia shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 2601 Main Street, Suite 310, Irvine, California 92614-6399.

e. The timely completion of the audit and submission of the audit results in Paragraph 2.c and the timely completion and submission of verification of attendance at an export compliance training in Paragraph 2.d, are 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 Gracia.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Gracia hereby waives all rights to further procedural steps in this matter including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; and (b) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Gracia 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 transactions identified in the Proposed Charging Letter or enforcement of this Agreement and the Order, if issued, from the date of the Order until the later of the date Gracia has completed the audit and submitted the audit results in Paragraph 2.c, Gracia has completed and submitted verification of attendance at an export compliance training in Paragraph 2.d., or the two-year suspension period under the Order has successfully run.

4. BIS agrees that upon successful compliance in full with the terms of this Agreement and the Order, if issued, BIS will not initiate any further administrative proceeding against Gracia in connection with any violation of the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. 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.

6. 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.

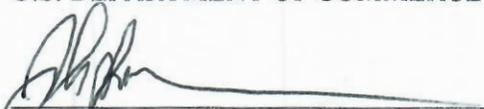
7. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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

9. Each signatory affirms that he/she has authority to enter into this Agreement and to bind his/her respective party to the terms and conditions set forth herein.

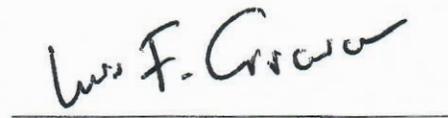
10. Should there be any ambiguity as to any terms of this Agreement, this English-language version shall control.

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


John Sonderman
Director of Export Enforcement

Date: 7/29/2022

LUIS FERNANDO GRACIA


Luis Fernando Gracia

Date: 07-26-22

Reviewed and approved by:


Grant D. Wille
Ralls & Wille P.C.

Counsel for Luis Fernando Gracia

Date: 7-29-22

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Luis Fernando Gracia
46 E. Jackson Street
Nogales, Arizona 85621

Dear Mr. Gracia:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Luis Fernando Gracia of Nogales, Arizona (“Gracia”), has violated the Export Administration Regulations (the “EAR” or the “Regulations”).¹ Specifically, BIS alleges that Gracia violated the Regulations as follows:²

Charge 1 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation of the Regulations

On one occasion on or about August 28, 2018, Gracia, who at all times pertinent hereto was the owner and operator of GE Equipos de Seguridad, a company located in Nogales, Arizona and in Sonora, Mexico, engaged in conduct prohibited by the Regulations. Specifically, Gracia caused, aided, or abetted an attempted export from the United States to Mexico of ballistic helmets and rifle scopes (the “items”) without the required BIS license. At all times pertinent to the transaction at issue, these items were subject to the Regulations, classified on the Commerce Control List (the “CCL”) under Export Control Classification Numbers (“ECCNs”) 0A979 and 0A987, respectively, and controlled for

¹ The Regulations originally issued pursuant to the Export Administration Act of 1979 (50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>) (“EAA” or “the Act”). 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 14, 2019 (84 Fed. Reg. 41881 (Aug. 15, 2019)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2012)) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2022). The violation alleged occurred in 2018. The Regulations governing the violation at issue are found in the 2018 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2018). The 2022 Regulations govern the procedural aspects of this case.

Crime Control (CC) reasons. The items were valued in total at approximately \$4,329. Pursuant to Section 742.7 of the Regulations, a BIS license was required to export the items to Mexico.

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By causing, aiding, or abetting this attempted export without the required BIS license, Gracia committed one violation of Section 764.2(b) of the Regulations.

* * * * *

Accordingly, Gracia is hereby notified that an administrative proceeding is instituted against him pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$328,121 per violation,³ or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges;

³ See 50 U.S.C. § 4819 (prescribing civil monetary penalty amount for ECRA violation); 15 C.F.R. §§ 6.3, 6.4 (adjusting civil monetary penalty amount for inflation).

⁴ See 50 U.S.C. § 4819(c)(1)(A).

- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

Gracia is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Gracia is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *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 Gracia have a proposal to settle this case, Gracia should transmit it to the attorney representing BIS named below.

Gracia is further notified that under the Small Business Regulatory Enforcement Flexibility Act, he 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, Gracia'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 Gracia's answer must be served on BIS at the following address:

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

Luis Fernando Gracia
Proposed Charging Letter
Page 4 of 4

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

Sincerely,

John Sonderman
Director
Office of Export Enforcement