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(12)



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington, D.C. 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Federal Express Corporation
2005 Corporate Avenue
Memphis, Tennessee 38132-1702

Attention *Theodore L. Weise*
President and Chief Executive Officer

Dear Mr. Weise-

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), hereby charges that, as described in detail below, Federal Express Corporation (Federal Express) has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (I 999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act).²

Facts constituting violations:

Charge 1

On or about October 1, 1996, Federal Express shipped U.S. origin commodities, *to wit*, a Universai BIMOS probe card interface assembly and probe card mounting rings, to Realtek Semiconductor Company, Ltd (Realtek) in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995. See 60 *Fed. Reg.* 40565-40566, August 9, 1995. Federal Express'

¹ The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (hereinafter the "former Regulations"). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 35, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred; the Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1993 (3 C.F.R., 1998 Comp. 294 (1999)) and August 10, 1999 (64 *Fed. Reg.* 44 101, August 13, 1999), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



Order dated August 3, 1995. See 60 *Fed. Reg.* 40565-40566, August 9, 1995. Federal Express' involvement in this transaction was contrary to the terms of the August 3, 1995 Order denying Realtek export privileges.

BXA alleges that, by shipping any U.S. origin commodity from the United States to Realtek in violation of or contrary to any provision of the Act or any regulation, order or license issued thereunder, Federal Express committed one violation of Section 787A.6 of the former Regulations.

Charge 2

In connection with the shipment described in Charge 1 above, Federal Express failed to maintain records as required by the former Regulations, including copies of a completed Shipper's Export Declaration and Air Waybill, as required by Section 787A.13 of the former Regulations. BXA alleges that, by failing to maintain records that were required to be maintained under the former Regulations, Federal Express committed one violation of Section 787A. 13 of the former Regulations.

Accordingly, Federal Express is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);

Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or

Exclusion from practice before BXA (see Section 764.3(a)(3) of the Regulations).

Copies of relevant Parts of the Regulations are enclosed.

If Federal Express fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7 of the Regulations.

Federal Express is further notified that it is entitled to an agency hearing on the record as provided by Section 13(c) of the Act and Section 766.6 of the Regulations, if a written demand for one is filed with its answer, to be represented by counsel, and to seek a consent settlement.

Federal Express
Charging Letter
Page 3

under the Regulations, in connection with the matters set forth in this letter. Accordingly, Federal Express' answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5(a) of the Regulations. In addition, a copy of Federal Express' answer should be served on BXA at the address set forth in Section 766.5(b), adding "ATTENTION: Melissa B. Mannino, Esq. " below the address. Ms. Mannino may be contacted by telephone at (202) 482-5304.

Sincerely,

Mark D. Menefee
Director
Office of Export Enforcement

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
FEDERAL EXPRESS CORPORATION)
2005 Corporate Avenue)
Memphis, Tennessee 38132,)
)

Respondent

SETTLEMENT AGREEMENT

This Agreement is made by and between the Federal Express Corporation (FedEx) and the Bureau of Export Administration, United States Department of Commerce, pursuant to Section 766.18(a) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1999)) (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the Act).²

¹ The alleged violations occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter the "former Regulations"). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred; the Regulations establish the procedures that apply to this matter.

² The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (3 C.F.R., 1999 Comp. 302 (2000)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

WHEREAS, the Office of Export Enforcement, Bureau of Export Administration (BXA), has notified FedEx of its intention to initiate an administrative proceeding against it pursuant to the Act and the Regulations, based on allegations that on or about October 1, 1996, FedEx shipped U.S. origin commodities, to wit, a Universai BIMOS probe card interface assembly and probe card mounting rings, to Realtek Semiconductor Company, Ltd. (Realtek) in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995, and that FedEx failed to maintain records of that transaction as required by the former Regulations, in violation of Section 787X.6 and Section 787A13 of the former Regulations;

WHEREAS, FedEx has reviewed the proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true; it fully understands the terms of this Settlement Agreement and the appropriate Order; it enters into this Settlement Agreement voluntarily and with full knowledge of its rights, and it states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, FedEx neither admits nor denies the allegations contained in the proposed Charging Letter:

WHEREAS, FedEx and BXA wish to settle and dispose of all matters alleged in the proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, FedEx agrees to be bound by an appropriate Order giving effect to the terms of this Settlement Agreement, when entered (appropriate Order);

NOW THEREFORE, FedEx and BXA agree as follows:

1. BXA has jurisdiction over FedEx, under the Act and the Regulations, in connection with the matters alleged in the proposed Charging Letter.

2. BXA and FedEx agree that the following sanction shall be imposed against FedEx in complete settlement of the alleged violations of the Act and the former Regulations set forth in the proposed Charging Letter:

- a. FedEx shall be assessed a civil penalty in the amount of \$15,000, which shall be paid to the Department of Commerce within 30 days from the date of entry of the appropriate Order
- b. As authorized by Section 11(d) of the Act, the timely payment of the civil penalty agreed to in paragraph 2a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to FedEx. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of FedEx's export privileges for a period of one year from the date of entry of the appropriate Order imposing the civil penalty.

3. FedEx agrees that, subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, it hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the appropriate Order, when entered), including, without limitation, any right: (a) to an administrative hearing regarding the allegations in the proposed Charging Letter; (b) to request a refund of any civil penalty paid pursuant to this Settlement Agreement and the appropriate Order, when entered; and (c) to seek

judicial review or otherwise to contest the validity of this Settlement Agreement or the appropriate Order, when entered

4. BXX agrees that, upon entry of an appropriate Order, it will not initiate any administrative proceeding against FedEx in connection with any violation of the Act or the former Regulations arising out of the transactions identified in the proposed Charging Letter.

5. FedEx understands that BXX will make the proposed Charging Letter, this Settlement Agreement, and the appropriate Order, when entered, available to the public.

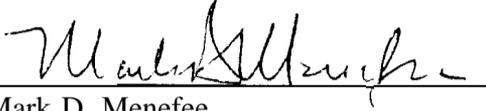
6. BXA and FedEx agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and an appropriate Order is not issued by the Assistant Secretary for Export Enforcement pursuant to Section 766.18(a) of the Regulations, BXA and FedEx agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the appropriate Order, when entered, nor shall this Settlement Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Settlement Agreement shall become binding on BXA only when the Assistant Secretary for Export Enforcement approves it by entering an appropriate Order, which will have

the same force and effect as a decision and order issued after a full administrative hearing on the record.

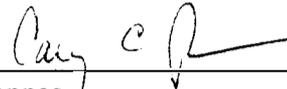
BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE



Mark D. Menefee
Director
Office of Export Enforcement

Date: 8/1/00

FEDERAL EXPRESS CORPORATION



Cary Pappas
Vice President for Global Trade Services
Federal Express Corporation

Date: 7/10/00

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 30230

In the Matter of:)
)
FEDERAL EXPRESS CORPORATION)
2005 Corporate Avenue)
Memphis, Tennessee 38132,)
)
Respondent)

ORDER

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Federal Express Corporation (FedEx) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 2000)) (the "Act"), and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2000)) (the "Regulations"), based on allegations that on or about October 1, 1996,

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R.; 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), and August 10, 1999 (3 C.F.R., 1999 Comp. 302 (2000)). continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 2000)).

² The violations at issue occurred in 1996. The Regulations governing the violations at issue are found in the 1996 version of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (hereinafter the "former Regulations"). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred; the Regulations establish the

FedEx exported U.S.-origin commodities, *to wit*, a Universal BIMOS probe card interface assembly and probe card mounting rings, to Realtek Semiconductor Company, Ltd. (Realtek) in Taiwan, a person denied all U.S. export privileges by Order dated August 3, 1995, and failed to maintain records of that transaction as required by the former Regulations, in violation of Section 787A.6 and Section 787A.13 of the former Regulations.

BXA and FedEx having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$15,000 is assessed against FedEx, which shall be paid to the United States Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, FedEx will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that, as authorized by Section 11(d) of the Act, the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be

procedures that apply to this matter

granted, to FedEx. Accordingly, if FedEx should fail to pay the civil penalty in a timely manner, the undersigned will enter an Order under the authority of Section 11(d) of the Act denying all of FedEx's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed Chat-ging Letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order is effective immediately.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 10th day of Aug, 2000.

UNITED STATES DEPARTMENT OF
COMMERCE
NEWS

WASHINGTON, D.C. 20230

BUREAU OF
EXPORT
ADMINISTRATION

FOR IMMEDIATE RELEASE:
August 10, 2000
www.bxa.doc.gov

Contacts: Steven Jacques
Eugene Cottilli
(202) 482-272 1
(202) 482-2421 (fax)

FEDERAL EXPRESS SETTLES CHARGES OF ILLEGAL EXPORTS

WASHINGTON -- Commerce Assistant Secretary for Export Enforcement F. Amanda DeBusk today imposed \$15,000 in civil penalties on Federal Express (FedEx), of Memphis, Tenn., for allegedly facilitating the export of U.S.-origin equipment to a Denied Person and failure to maintain records of the subject transaction. A person or company may not participate, directly or indirectly, in an export-related transaction subject to the Export Administration Regulations with a Denied Person.

The Department alleged that FedEx, in 1996, facilitated the export of semiconductor equipment from the United States to Taiwan. The export was destined to a Denied Person, Realtek Semiconductor Co., Ltd., of Taipei, Taiwan. The Department also alleged that FedEx failed to maintain a proper record of the transaction.

The penalties were imposed as a result of an investigation conducted by the Office of Export Enforcement's Boston Field Office.

The Department of Commerce, through its Bureau of Export Administration, administers and enforces export controls for reasons of national security, foreign policy, nonproliferation and short supply. Criminal penalties, as well as administrative sanctions, can be imposed for violations of the regulations.