

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

In the Matter of:)
)
Mr. Spencer Clark Rogers)
663 Brea Canyon Road)
Walnut, CA 91789)
)
Respondent)

ORDER RELATING TO SPENCER CLARK ROGERS

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Spencer Clark Rogers, acting as vice president for sales of Jackmoon, USA, Inc. (“Jackmoon”),¹ in his individual capacity (“Rogers”) of its intention to initiate an administrative proceeding against him pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),² and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),³ by

¹On April 17, 2001, Jackmoon’s assets were purchased by Tyco Electronics Corporation (“TEC”) of Fuquay-Varina, NC, at which point TEC became Jackmoon’s successor.

² The violation charged occurred in 2000. The Regulations governing the violation at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 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 issued on 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 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 IEEPA.

issuing a proposed charging letter to Rogers that alleged that he committed one violation of the Regulations. Specifically, the charge is:

1. *One Violation of 15 C.F.R. §764.2(b) - Causing an Act Prohibited by the Regulations:* On or about April 7, 2000, Rogers caused an act prohibited by the Regulations when he sold or transferred foreign origin sealing products located in the United States, items subject to the Regulations, to a U.S. exporter under the representation that the parts were of U.S. origin. These representations caused the U.S. exporter to file or cause to be filed a Shipper's Export Declaration with the U.S. Government that falsely represented that the country of origin for the parts was the United States.

WHEREAS, BIS and Rogers have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

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

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$5,500 is assessed against Rogers, which shall be paid to the U.S. 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. §§ 3701-3720E (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, Rogers will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that 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 granted, to Rogers. Accordingly, if Rogers should fail to pay the civil penalty in a timely manner, the Assistant Secretary for Export Enforcement may enter an Order denying all of Rogers's export privileges under the Regulations for a period of one year from the date of entry of this Order.

FOURTH, for a period of two years from the date of entry of the Order, Spencer Clark Rogers, 663 Brea Canyon Road, Walnut, CA 91789, and when acting for or on behalf of Spencer Clark Rogers, his representatives, agents, assigns, or employees (hereinafter collectively referred to as "Denied Person") may not participate, directly or indirectly, 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.

FIFTH, 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 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.

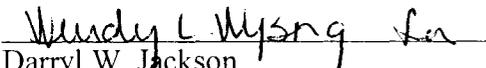
SIXTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Rogers by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

SEVENTH, 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.

EIGHTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for one year from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, Rogers has committed no violation of the Act or any regulation, order or license issued thereunder.

NINTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.


Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 27th day of October 2005.

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

In the Matter of:)
)
Mr. Spencer Clark Rogers)
663 Brea Canyon Road)
Walnut, CA 91789)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Spencer Clark Rogers, acting as vice president for sales of Jackmoon, USA, Inc. (“Jackmoon”),¹ in his individual capacity (“Rogers”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),³

¹On April 17, 2001, Jackmoon’s assets were purchased by Tyco Electronics Corporation (“TEC”) of Fuquay-Varina, NC, at which point TEC became Jackmoon’s successor.

² The violation charged occurred in 2000. The Regulations governing the violation at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 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 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 IEEPA.

WHEREAS, BIS has notified Rogers of its intention to initiate an administrative proceeding against Rogers, pursuant to the Act and the Regulation;

WHEREAS, BIS has issued a proposed charging letter to Rogers that alleged that Rogers committed one violation of the Regulations, specifically:

1. *One Violation of 15 C.F.R. §764.2(b) - Causing an Act Prohibited by the Regulations:* On or about April 7, 2000, Rogers caused an act prohibited by the Regulations when he sold or transferred foreign origin sealing products located in the United States, items subject to the Regulations, to a U.S. exporter under the representation that the parts were of U.S. origin. These representations caused the U.S. exporter to file or cause to be filed a Shipper's Export Declaration with the U.S. Government that falsely represented that the country of origin for the parts was the United States.

WHEREAS, Rogers has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

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

WHEREAS, Rogers enters into this Agreement voluntarily and with full knowledge of his rights;

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

WHEREAS, Rogers neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Rogers wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Rogers agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Rogers, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanctions shall be imposed against Rogers in complete settlement of the violation of the Regulations set forth in the proposed charging letter:
 - a. Rogers shall be assessed a civil penalty in the amount of \$5,500 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
 - b. The timely payment of the civil penalty agreed to in paragraph 2.a. 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 Rogers. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Rogers's export privileges under the Regulations for a period of one year from the date of imposition of the penalty.
 - c. For a period of two years from the date of entry of the Order, Rogers, and when acting for or on behalf of Spencer Clark Rogers his representatives, agents, assigns, or employees (hereinafter collectively referred to as "Denied Person")

may not participate, directly or indirectly, 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:

- 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 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 in any other activity subject to the Regulations.
- d. BIS agrees that, as authorized by Section 766.18 (c) of the Regulations, the two year denial period set forth in paragraph 2.c. shall be suspended in its entirety for a period of one year from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, Rogers has committed no violation of the Act or any regulation, order or license issued thereunder.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Rogers hereby waives all rights to further procedural steps in this matter (except with respect to any

alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter filed against Rogers relating to this investigation; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Rogers in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

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

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

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

SPENCER CLARK ROGERS



Michael D. Turner
Director
Office of Export Enforcement



Spencer Clark Rogers

Date: 10/25/05

Date: 10/17/05

DRAFT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Spencer Clark Rogers
663 Brea Canyon Road
Walnut, CA 91789

Dear Mr. Rogers:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has reason to believe that you, Spencer Clark Rogers, of Walnut, CA, acting as Vice President of Sales for Jackmoon, USA, Inc. (“Jackmoon”),¹ in your individual capacity (“Rogers”) have committed one violation of the Export Administration Regulations (the “Regulations”),² which are issued under the authority of the Export Administration Act of 1979 (the “Act”).³ Specifically, BIS charges that Rogers committed the following violation:

Charge 1 15 C.F.R. §764.2(b) - Causing an act prohibited by the Regulations.

On or about April 7, 2000, Rogers caused an act prohibited by the Regulations when he sold or transferred foreign origin sealing products located in the United States, items subject to the Regulations, to a U.S. exporter under the representation that the parts were of U.S. origin. These representations caused the U.S. exporter to file or cause to be filed a Shipper’s Export Declaration with the U.S. Government that falsely represented that the country of origin for the parts was the United States. By

¹ On April 17, 2001, Jackmoon’s assets were purchased by Tyco Electronics Corporation (“TEC”) of Fuquay-Varina, NC, at which point TEC became Jackmoon’s successor.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violation charged occurred in 2000. The Regulations governing the violation at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

³ 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 IEEPA.

causing the false representation to be made to the U.S. Government, in connection with exports subject to the Regulations, Rogers committed one violation of Section 764.2(b) of the Regulations.

Accordingly, Rogers is hereby notified that an administrative proceeding is instituted against him 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 \$11,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Rogers 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. (Regulations, Sections 766.6 and 766.7). If Rogers defaults, the Administrative Law Judge may find the charge alleged in this letter to be true without hearing or further notice to Rogers. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each charge in this letter.

Rogers 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. (Regulations, Section 766.6). Rogers is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Rogers have a proposal to settle this case, he or his representative should transmit the offer through the attorney representing BIS named below.

⁴ See 15 C.F.R. §6.4(a)(4) (2005).

Spencer Clark Rogers
Proposed Charging Letter
Page 3

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

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

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

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement