

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

In the Matter of:	)	
	)	Docket Number:
Federal Express Corporation	)	11-BIS-0003
d/b/a FedEx Express	)	
	)	
Respondent.	)	
	)	

ORDER RELATING TO FEDERAL EXPRESS CORPORATION  
D/B/A FEDEX EXPRESS

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Federal Express Corporation d/b/a FedEx Express (“FedEx”) of its intention to initiate an administrative proceeding against FedEx pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Charging Letter to FedEx that, as amended, (“Charging Letter”) alleges that FedEx committed six violations of the Regulations. Specifically, the charges are:

**Charges 1-3 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Exports to Syria without the Required Licenses**

On three occasions between on or about July 16, 2004, and on or about November 30, 2004, FedEx caused, aided or abetted acts prohibited by the Regulations when it facilitated the export of printer parts and components, items subject to the Regulations

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2004-2006. The Regulations governing the violations at issue are found in the 2004-2006 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2004-2006). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

and designated EAR99,<sup>3</sup> from the United States to Syria without the required Department of Commerce licenses. The export to Syria of these items without the required licenses was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on May 14, 2004 (69 Fed. Reg. 26,766 (May 14, 2004)), and remained in force at all times pertinent hereto. Specifically, FedEx caused, aided or abetted these unlawful exports to Syria by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with these transactions, and arranging for and transporting these items to Syria. In so doing, FedEx committed three violations of Section 764.2(b) of the Regulations.

**Charge 4      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

On or about July 3, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of an Intel PC Dialogic Board, an item subject to the Regulations and designated EAR99, from the United States to Mayrow General Trading Company (“Mayrow”) in Dubai, United Arab Emirates (“UAE”), without the required Department of Commerce license. The export to Mayrow of this item without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>4</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing, processing, and/or filing with the U.S. Government the Automated Export System records associated with this transaction, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS’s direction. In so doing, FedEx committed one violation of section 764.2(b) of the Regulations.

**Charge 5      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

On or about July 27, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of electronic peripheral equipment for computer systems, items subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 5A991 and controlled for anti-terrorism

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<sup>3</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2004).

<sup>4</sup> General Order No. 3 was removed from the Regulations on September 22, 2008. All of the entities that had been listed in General Order No. 3, including Mayrow, were transferred to the Entity List at the time of the removal of General Order No. 3. See 73 Fed. Reg. 54,499 (Sept. 22, 2008).

reasons, from the United States to Mayrow General Trading Company (“Mayrow”) in Dubai, United Arab Emirates (“UAE”), without the required Department of Commerce license. The export to Mayrow of these items without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>5</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing and/or processing export control documentation associated with this transaction, including the international air waybill, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS’s direction after the items had arrived in Dubai. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

**Charge 6      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Export to an Entity on the Entity List without the Required License**

On or about December 31, 2005, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of flight simulation software, an item software subject to the Regulations, designated EAR99, and related to a flight simulation module classified under ECCN 4A994 and controlled for anti-terrorism reasons, to Beijing University of Aeronautics and Astronautics, a/k/a Beihang University (“Beihang University”) in the People’s Republic of China without the required Department of Commerce license. The export of these items to Beihang University, at all times pertinent hereto an entity listed on the Entity List, which is set forth in Supplement No. 4 to Part 744 of the Regulations, was prohibited under Section 744.1 of the Regulations.<sup>6</sup> Specifically, FedEx caused, aided or abetted this unlawful export to Beihang University by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with this item, and arranging for and transporting this item to Beihang University in China. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and FedEx have entered into a Settlement Agreement pursuant to Section 766.18(b) 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 of the terms of such Settlement Agreement;

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<sup>5</sup> See note 4, *supra*.

<sup>6</sup> Beijing University of Aeronautics and Astronautics was added to the Entity List on May 14, 2001 (66 Fed. Reg. 24,266 (May 14, 2001)), and Beihang University was added as an alias for Beijing University of Aeronautics and Astronautics on the Entity List on September 16, 2005 (70 Fed. Reg. 54,628 (Sept. 16, 2005)).

IT IS THEREFORE ORDERED:

FIRST, FedEx shall be assessed a civil penalty in the amount of \$370,000. FedEx shall pay the amount in full to the U.S. Department of Commerce within 30 days of the date of the 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, FedEx 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 full and timely payment of the civil penalty in accordance with the payment schedule 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 FedEx. Accordingly, if FedEx should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an Order denying all of FedEx's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, that the 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.

A handwritten signature in black ink, appearing to read 'D. Mills', is written over a horizontal line.

David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 6 day of December, 2011.

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

In the Matter of:	)	
	)	Docket Number:
Federal Express Corporation	)	11-BIS-0003
d/b/a FedEx Express	)	
	)	
Respondent.	)	
	)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Federal Express Corporation d/b/a FedEx Express (“FedEx”) and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup>

WHEREAS, BIS has initiated an administrative proceeding against FedEx, pursuant to the Act and the Regulations;

WHEREAS, BIS issued a Charging Letter to FedEx (the “Charging Letter”) that alleges that FedEx committed six violations of the Regulations, specifically:

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred in 2004-2006. The Regulations governing the violations at issue are found in the 2004-2006 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2004-2006). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charges 1-3 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Exports to Syria without the Required Licenses**

On three occasions between on or about July 16, 2004, and on or about November 30, 2004, FedEx caused, aided or abetted acts prohibited by the Regulations when it facilitated the export of printer parts and components, items subject to the Regulations and designated EAR99,<sup>3</sup> from the United States to Syria without the required Department of Commerce licenses. The export to Syria of these items without the required licenses was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on May 14, 2004 (69 Fed. Reg. 26,766 (May 14, 2004)), and remained in force at all times pertinent hereto. Specifically, FedEx caused, aided or abetted these unlawful exports to Syria by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with these transactions, and arranging for and transporting these items to Syria. In so doing, FedEx committed three violations of Section 764.2(b) of the Regulations.

**Charge 4 15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

On or about July 3, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of an Intel PC Dialogic Board, an item subject to the Regulations and designated EAR99, from the United States to Mayrow General Trading Company ("Mayrow") in Dubai, United Arab Emirates ("UAE"), without the required Department of Commerce license. The export to Mayrow of this item without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>4</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing, processing, and/or filing with the U.S. Government the Automated Export System records associated with this transaction, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS's direction. In so doing, FedEx committed one violation of section 764.2(b) of the Regulations.

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<sup>4</sup> General Order No. 3 was removed from the Regulations on September 22, 2008. All of the entities that had been listed in General Order No. 3, including Mayrow, were transferred to the Entity List at the time of the removal of General Order No. 3. See 73 Fed. Reg. 54,499 (Sept. 22, 2008).



**Charge 5      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

On or about July 27, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of electronic peripheral equipment for computer systems, items subject to the Regulations and classified under Export Control Classification Number (“ECCN”) 5A991 and controlled for anti-terrorism reasons, from the United States to Mayrow General Trading Company (“Mayrow”) in Dubai, United Arab Emirates (“UAE”), without the required Department of Commerce license. The export to Mayrow of these items without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>5</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing and/or processing export control documentation associated with this transaction, including the international air waybill, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS’s direction after the items had arrived in Dubai. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

**Charge 6      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Export to an Entity on the Entity List without the Required License**

On or about December 31, 2005, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of flight simulation software, an item software subject to the Regulations, designated EAR99, and related to a flight simulation module classified under ECCN 4A994 and controlled for anti-terrorism reasons, to Beijing University of Aeronautics and Astronautics, a/k/a Beihang University (“Beihang University”) in the People’s Republic of China without the required Department of Commerce license. The export of these items to Beihang University, at all times pertinent hereto an entity listed on the Entity List, which is set forth in Supplement No. 4 to Part 744 of the Regulations, was prohibited under Section 744.1 of the Regulations.<sup>6</sup> Specifically, FedEx caused, aided or abetted this unlawful export to Beihang University by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with this item, and arranging for and transporting this item to Beihang University in China. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

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<sup>5</sup> See note 4, *supra*.

<sup>6</sup> Beijing University of Aeronautics and Astronautics was added to the Entity List on May 14, 2001 (66 Fed. Reg. 24,266 (May 14, 2001)), and Beihang University was added as an alias for Beijing University of Aeronautics and Astronautics on the Entity List on September 16, 2005 (70 Fed. Reg. 54,628 (Sept. 16, 2005)).



WHEREAS, FedEx has reviewed the 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;

WHEREAS, FedEx fully understands the terms of this Agreement and 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;

WHEREAS, FedEx enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, FedEx 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 Charging Letter;

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

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

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

1. BIS has jurisdiction over FedEx, under the Regulations, in connection with the matters alleged in the Charging Letter.
2. The following sanctions shall be imposed against FedEx in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Charging Letter:

- a. FedEx shall be assessed a civil penalty in the amount of \$370,000.

FedEx shall pay the amount in full to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

b. The full and 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, license exception, permission, or privilege granted, or to be granted, to FedEx. Failure to make full and timely payment of the civil penalty set forth above may result in the denial of all of FedEx's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, FedEx 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 issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. FedEx also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, for the time period from the date of the Order, if issued, until the date FedEx pays in full the civil penalty agreed to in paragraph 2.a of this Agreement, in connection with any violations of the Act or the Regulations arising out of the transactions identified in the Charging Letter

or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued.

4. Upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, BIS will not initiate any further administrative proceeding against FedEx in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Charging Letter.

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

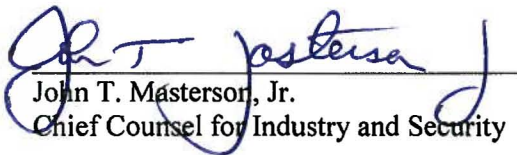
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, no Party may use this Agreement in any administrative or judicial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

8. 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.

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

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

  
John T. Masterson, Jr.  
Chief Counsel for Industry and Security

Date: Dec 5, 2011

FEDEX EXPRESS

  
M. Rush O'Keefe, Jr.  
Senior Vice-President and General Counsel  
Legal and Regulatory Affairs

Date: DEC 5, 2011



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

CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Federal Express Corporation  
3610 Hacks Cross Road  
Building A, Third Floor  
Memphis, Tennessee 38125

Attn: *David J. Bronczek*  
*President and Chief Executive Officer*

Dear Mr. Bronczek:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Federal Express Corporation, doing business as FedEx Express, of Memphis, Tennessee ("FedEx"), has committed six violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that FedEx committed the following violations:

**Charges 1-3            15 C.F.R. § 764.2(b): Causing, Aiding or Abetting Exports to Syria without the Required Licenses**

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on three occasions between on or about July 16, 2004, and on or about

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2010). The charged violations occurred in 2004-2006. The Regulations governing the violations at issue are found in the 2004-2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004-06)). The 2010 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive presidential notices, the most recent being that of August 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2000)).



November 30, 2004, FedEx caused, aided or abetted acts prohibited by the Regulations when it facilitated the export of printer parts and components, items subject to the Regulations and designated EAR99,<sup>3</sup> from the United States to Syria without the required Department of Commerce licenses. The export to Syria of these items without the required licenses was prohibited under General Order No. 2, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on May 14, 2004 (69 Fed. Reg. 26,766 (May 14, 2004)), and remained in force at all times pertinent hereto. Specifically, FedEx caused, aided or abetted these unlawful exports to Syria by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with these transactions, and arranging for and transporting these items to Syria. In so doing, FedEx committed three violations of Section 764.2(b) of the Regulations.

**Charge 4                      15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on or about July 3, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of an Intel PC Dialogic Board, an item subject to the Regulations and designated EAR99, from the United States to Mayrow General Trading Company ("Mayrow") in Dubai, United Arab Emirates ("UAE"), without the required Department of Commerce license. The export to Mayrow of this item without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>4</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing, processing, and/or filing with the U.S. Government the Automated Export System records associated with this transaction, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS's direction. In so doing, FedEx committed one violation of section 764.2(b) of the Regulations.

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<sup>3</sup> EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2010).

<sup>4</sup> General Order No. 3 was removed from the Regulations on September 22, 2008. All of the entities that had been listed in General Order No. 3, including Mayrow, were transferred to the Entity List at the time of the removal of General Order No. 3. See 73 Fed. Reg. 54,499 (Sept. 22, 2008).

**Charge 5**                    **15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Attempted Export to Mayrow General Trading Company without the Required License**

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on or about July 27, 2006, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the attempted export of electronic peripheral equipment for computer systems, items subject to the Regulations and classified under Export Control Classification Number ("ECCN") 5A991 and controlled for anti-terrorism reasons, from the United States to Mayrow General Trading Company ("Mayrow") in Dubai, United Arab Emirates ("UAE"), without the required Department of Commerce license. The export to Mayrow of these items without the required license was prohibited under General Order No. 3, set forth in Supplement No. 1 to Part 736 of the Regulations, which was issued on June 5, 2006 (71 Fed. Reg. 32,272 (June 5, 2006)), and was in force at all times pertinent hereto.<sup>5</sup> Specifically, FedEx caused, aided or abetted this unlawful attempted export to Mayrow by, *inter alia*, preparing and/or processing export control documentation associated with this transaction, including the international air waybill, and arranging for and transporting this item for intended delivery to Mayrow in Dubai, UAE. The export to Mayrow was thwarted when delivery was halted at BIS's direction after the items had arrived in Dubai. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

**Charge 6**                    **15 C.F.R. § 764.2(b): Causing, Aiding or Abetting an Export to an Entity on the Entity List without the Required License**

As described in further detail in the attached Schedule of Violations, which is incorporated herein by reference, on or about December 31, 2005, FedEx caused, aided or abetted an act prohibited by the Regulations when it facilitated the export of a flight simulation module, an item classified under ECCN 4A994 and controlled for anti-terrorism reasons, and related software subject to the Regulations and designated EAR99, to Beijing University of Aeronautics and Astronautics, a/k/a Beihang University ("Beihang University") in the People's Republic of China without the required Department of Commerce license. The export of these items to Beihang University, at all times pertinent hereto an entity listed on the Entity List, which is set forth in Supplement No. 4 to Part 744 of the Regulations, was prohibited under Section 744.1 of the Regulations.<sup>6</sup> Specifically, FedEx caused, aided or abetted this unlawful export to Beihang

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<sup>5</sup> See note 4, *supra*.

<sup>6</sup> Beijing University of Aeronautics and Astronautics was added to the Entity List on May 14, 2001 (66 Fed. Reg. 24,266 (May 14, 2001)), and Beihang University was added as an alias for Beijing University of Aeronautics and Astronautics on the Entity List on September 16, 2005 (70 Fed. Reg. 54,628 (Sept. 16, 2005)),



University by, *inter alia*, preparing, processing and/or filing with the U.S. Government the Automated Export System records associated with this item, and arranging for and transporting this item to Beihang University in China. In so doing, FedEx committed one violation of Section 764.2(b) of the Regulations.

\* \* \* \*

Accordingly, FedEx 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 \$250,000 per violation;<sup>7</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If FedEx 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If FedEx defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to FedEx. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

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

FedEx is further notified that under the Small Business Regulatory Enforcement Flexibility Act, FedEx 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/>.

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<sup>7</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, FedEx's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

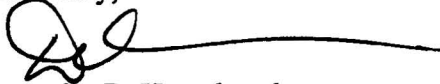
U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of FedEx's answer must be served on BIS at the following address:

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

Eric Clark and Elias Wolfberg are the attorneys representing BIS in this case. Any communications that FedEx may wish to have concerning this matter should occur through Mr. Wolfberg. Mr. Wolfberg may be contacted by telephone at (202) 482-5301.

Sincerely,



Douglas R. Hassebrock  
Director  
Office of Export Enforcement

**Federal Express Corporation  
Charging Letter  
Schedule of Violations**

<b>Charge No.</b>	<b>Date of Export/Attempted Export</b>	<b>Destination</b>	<b>Description of Commodity</b>	<b>ECCN</b>	<b>Violation</b>
1	7/16/2004	Syria	Printer Components	EAR99	15 C.F.R. §764.2(b)
2	7/22/2004	Syria	Printer Components	EAR99	15 C.F.R. §764.2(b)
3	11/30/2004	Syria	Printer Components	EAR99	15 C.F.R. §764.2(b)
4	7/3/2006	Mayrow General Trading Company (Dubai, United Arab Emirates)	Intel PC Dialogic Board	EAR99	15 C.F.R. §764.2(b)
5	7/27/2006	Mayrow General Trading Company (Dubai, United Arab Emirates)	Electronic peripheral equipment for computer systems	5A991	15 C.F.R. §764.2(b)
6	12/31/2005	Beihang University (Beijing, People's Republic of China)	Flight simulation hardware and related Software	4A994, EAR99	15 C.F.R. §764.2(b)