

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

In the Matter of:)
)
FSI International, Inc.)
3455 Lyman Blvd.)
Chaska, Minnesota 55318)
)
Respondent)

ORDER RELATING TO FSI INTERNATIONAL, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified FSI International, Inc. (“FSI”) of its intention to initiate an administrative proceeding against FSI pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to FSI that alleged that it committed 66 violations of the Regulations. Specifically, these charges are:

Charges 1-66 15 C.F.R. § 764.2(a): Exporting Valves and Pumps Without the Required Licenses

On 66 occasions, between on or about August 7, 2003 and on or about October 12, 2006, FSI engaged in conduct prohibited by the Regulations by exporting flouropolymer-coated valves and pumps, items subject to the Regulations, classified under Export Control Classification Number 2B350, and controlled for chemical and biological weapons proliferation reasons, from the United States to China, Israel, Malaysia, Taiwan, and Singapore without the Department of

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred between 2003 and 2006. The Regulations governing the violations at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2006)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

Commerce licenses required by 742.2 of the Regulations. In so doing, FSI committed 66 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and FSI 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 of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:


FIRST, FSI shall be assessed a civil penalty in the amount of \$450,000. FSI shall pay \$5,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Thereafter, FSI shall pay \$5,000 to the U.S. Department of Commerce not later than January 1, 2010; \$5,000 not later than February 1, 2010; \$5,000 not later than March 1, 2010; \$5,000 not later than April 1, 2010; \$5,000 not later than May 1, 2010; \$5,000 not later than June 1, 2010; \$5,000 not later than July 1, 2010; \$5,000 not later than August 1, 2010; and \$5,000 not later than September 1, 2010. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$400,000 shall be suspended for a period of one (1) year from the date of issuance of the Order, and thereafter shall be waived, provided that during the period of suspension, FSI has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$50,000 as set forth above.

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, FSI 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 FSI. Accordingly, if FSI should fail to pay the civil penalty in a timely manner, the undersigned may issue an Order denying all of FSI's export privileges under the Regulations for a period of one year from the date of this Order.

FOURTH, 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.



Kevin Delli-Colli
Acting Assistant Secretary of Commerce
for Export Enforcement

Issued this 29th day of October, 2009.

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

In the Matter of:)
)
FSI International, Inc.)
3455 Lyman Blvd.)
Chaska, Minnesota 55318)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between FSI International, Inc. (“FSI”) 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 issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, FSI filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

WHEREAS, BIS has notified FSI of its intention to initiate an administrative proceeding against it, pursuant to the Act and the Regulations;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred between 2003 and 2006. The Regulations governing the violations at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2006)). The 2009 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse. However, 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

WHEREAS, BIS has issued a Proposed Charging Letter to FSI that alleged that FSI committed 66 violations of the Regulations, specifically:

Charges 1-66 15 C.F.R. § 764.2(a): Exporting Valves and Pumps Without the Required Licenses

On 66 occasions, between on or about August 7, 2003 and on or about October 12, 2006, FSI engaged in conduct prohibited by the Regulations by exporting flouropolymer-coated valves and pumps, items subject to the Regulations, classified under Export Control Classification Number 2B350, and controlled for chemical and biological weapons proliferation reasons, from the United States to China, Israel, Malaysia, Taiwan, and Singapore without the Department of Commerce licenses required by 742.2 of the Regulations. In so doing, FSI committed 66 violations of Section 764.2(a) of the Regulations.

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

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

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

WHEREAS, FSI neither admits nor denies the allegations contained in the Proposed Charging Letter;

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

WHEREAS, FSI 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 FSI, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against FSI in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. FSI shall be assessed a civil penalty in the amount of \$450,000.

FSI shall pay \$5,000 to the U.S. Department of Commerce within 30 days of the date of the Order. Thereafter, FSI shall pay \$5,000 to the U.S. Department of Commerce not later than January 1, 2010; \$5,000 not later than February 1, 2010; \$5,000 not later than March 1, 2010; \$5,000 not later than April 1, 2010; \$5,000 not later than May 1, 2010; \$5,000 not later than June 1, 2010; \$5,000 not later than July 1, 2010; \$5,000 not later than August 1, 2010; and \$5,000 not later than September 1, 2010. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$400,000 shall be suspended for a period of one (1) year from the date of issuance of the Order, and thereafter shall be waived, provided that during the period of suspension, FSI has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$50,000 as set forth above.

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 FSI.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of FSI's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, FSI 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.

4. BIS agrees that, upon issuance of the Order, it will not initiate any further administrative proceeding against FSI in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

5. BIS will make the Proposed 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(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 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 he has authority to enter into this Settlement Agreement and to bind it respective party to the terms and conditions set forth herein.

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



Thomas Madigan
Director
Office of Export Enforcement

Date: 10/21/09, 2009



Benno Sand
Executive Vice President
Business Development and Investor Relations
FSI International, Inc.

Date: 10/20/09, 2009

PROPOSED CHARGING LETTER
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

FSI International, Inc.
3455 Lyman Blvd.
Chaska, MN 55318

Attention: Donald S. Mitchell
Chairman and CEO

Dear Mr. Mitchell:

The Bureau of Industry and Security, U. S. Department of Commerce (“BIS”), has reason to believe that FSI International, Incorporated, of Chaska, Minnesota (“FSI”) has committed 66 violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that FSI committed the following violations:

Charges 1-66 15 C.F.R. § 764.2(a): Exporting Valves and Pumps Without the Required Licenses

As described in greater detail the attached Schedule of Violations, which is incorporated herein by reference, on 66 occasions, between on or about August 7, 2003 and on or about October 12, 2006, FSI engaged in conduct prohibited by the Regulations by exporting flouropolymer-coated valves and pumps, items subject to the Regulations, classified under Export Control Classification Number 2B350, and controlled for chemical and biological weapons proliferation reasons, from the United States to China, Israel, Malaysia, Taiwan, and Singapore without the Department of Commerce licenses required by 742.2 of the Regulations. In so doing, FSI committed 66 violations of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations charged occurred between 2003 and 2006. The Regulations governing the violations at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2006)). The 2009 Regulations govern the procedural aspects of this case.

² 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707).

* * * * *

Accordingly, FSI 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 up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If FSI 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. 15 C.F.R. §§ 766.6 and 766.7 (2009). If FSI defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to FSI. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

FSI 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. 15 C.F.R. § 766.6 (2009). FSI is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2009).

The Regulations provide for settlement without a hearing. 15 C.F.R. § 766.18 (2009). Should FSI have a proposal to settle this case, FSI or its representative should transmit it through the attorney representing BIS named below.

FSI is further notified that under the Small Business Regulatory Enforcement Flexibility Act, FSI 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, FSI'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

³ International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

FSI International, Inc.
Proposed Charging Letter
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In addition, a copy of FSI's answer must be served on BIS at the following address:

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement

Charge No.	Export Date	Part No.	ECCN	Destination	Approx. Value	Packing List No.	Violation
1	8/7/2003	908990-308	2B350	PRC	\$32,856	80062076	15 C.F.R. § 764.2(a)
2	12/8/2003	304644-003	2B350	PRC	\$9,456	80065765	15 C.F.R. § 764.2(a)
3	5/24/2004	304644-001	2B350	Taiwan			15 C.F.R. § 764.2(a)
4	6/10/2004	304644-001	2B350	Taiwan	\$17,023	80073744	15 C.F.R. § 764.2(a)
5	7/6/2004	312016-001	2B350	Taiwan	\$606	80074783	15 C.F.R. § 764.2(a)
6	7/22/2004	304644-001	2B350	Taiwan	\$3,695	80075763	15 C.F.R. § 764.2(a)
7	7/29/2004	302548-005	2B350	PRC	\$960	80074736	15 C.F.R. § 764.2(a)
8	9/9/2004	304644-001	2B350	Taiwan	\$3,695	80077238	15 C.F.R. § 764.2(a)
9	9/23/2004	312016-001	2B350	Taiwan	\$303	80077774	15 C.F.R. § 764.2(a)
10	9/30/2004	304644-001	2B350	Taiwan	\$3,695	80077948	15 C.F.R. § 764.2(a)
11	11/24/2004	304644-001	2B350	Taiwan	\$8,780	80079803	15 C.F.R. § 764.2(a)
		312016-002 312016-001					
12	12/2/2004	304644-001	2B350	Taiwan	\$5,091	80079894	15 C.F.R. § 764.2(a)
13	12/29/2004	307323-002	2B350	Taiwan	\$584	80080822	15 C.F.R. § 764.2(a)
		312016-002 312016-001					
14	1/19/2005	312016-001	2B350	Israel	\$1,050	80081464	15 C.F.R. § 764.2(a)
15	1/27/2005	304644-003	2B350	PRC	\$8,132	80081737	15 C.F.R. § 764.2(a)
16	3/17/2005	302323-002	2B350	Taiwan	\$104	80083194	15 C.F.R. § 764.2(a)
17	3/30/2005	304644-003	2B350	PRC	\$8,132	80083581	15 C.F.R. § 764.2(a)
18	4/21/2005	304644-001	2B350	Taiwan	\$8,314	80084217	15 C.F.R. § 764.2(a)
		309133-001 312016-002					
19	5/12/2005	312016-001	2B350	Taiwan	\$1,341	80084845	15 C.F.R. § 764.2(a)
20	5/18/2005	312016-002	2B350	Israel	\$525	80085113	15 C.F.R. § 764.2(a)
21	5/25/2005	309133-001	2B350	Israel	\$1,020	80085300	15 C.F.R. § 764.2(a)
22	6/28/2005	304644-001	2B350	Taiwan	\$7,656	80086264	15 C.F.R. § 764.2(a)
23	7/8/2005	925487-601	2B350	Israel	\$10,560	80086586	15 C.F.R. § 764.2(a)
24	7/28/2005	304644-001	2B350	Taiwan	\$8,452	80087167	15 C.F.R. § 764.2(a)
		302323-002 309133-001 312016-002					
25	8/15/2005	312016-001	2B350	Malaysia	\$2,844	80087299	15 C.F.R. § 764.2(a)
		302323-002 309133-001					
26	9/1/2005	302548-001	2B350	Israel	\$1,272	80088293	15 C.F.R. § 764.2(a)
27	9/13/2005	925487-601	2B350	Israel	\$9,900	80088646	15 C.F.R. § 764.2(a)
28	9/25/2005	309133-001	2B350	Singapore	\$585	80088873	15 C.F.R. § 764.2(a)
29	9/29/2005	309133-001	2B350	Singapore	\$292	80089064	15 C.F.R. § 764.2(a)
30	9/29/2005	312016-001	2B350	Taiwan	\$682	80089119	15 C.F.R. § 764.2(a)
31	10/21/2005	304644-003	2B350	PRC	\$9,456	80089899	15 C.F.R. § 764.2(a)
32	10/23/2005	304644-001	2B350	Taiwan	\$8,661	80090742	15 C.F.R. § 764.2(a)
33	10/27/2005	312016-001	2B350	Taiwan	\$682	80090096	15 C.F.R. § 764.2(a)
34	10/31/2005	312016-001	2B350	Taiwan	\$303	80090217	15 C.F.R. § 764.2(a)
35	11/17/2005	304644-001	2B350	Taiwan	\$8,314	80090972	15 C.F.R. § 764.2(a)
		312016-002 312016-001					
36	11/28/2005	312016-001	2B350	Israel	\$1,610	80091103	15 C.F.R. § 764.2(a)
37	11/29/2005	304644-003	2B350	PRC	\$8,037	80091119	15 C.F.R. § 764.2(a)
38	1/7/2006	302323-002	2B350	Singapore	\$222	80092296	15 C.F.R. § 764.2(a)
39	1/12/2006	312016-002	2B350	Taiwan	\$716	80092419	15 C.F.R. § 764.2(a)
40	1/23/2006	304644-001	2B350	Taiwan	\$8,661	80092640	15 C.F.R. § 764.2(a)
41	2/17/2006	312016-001	2B350	Taiwan	\$682	80093720	15 C.F.R. § 764.2(a)
42	2/23/2006	312016-002	2B350	Singapore	\$303	80093851	15 C.F.R. § 764.2(a)
43	3/9/2006	312016-001	2B350	Israel	\$724	80094420	15 C.F.R. § 764.2(a)

Charge No.	Export Date	Part No.	ECCN	Destination	Approx. Value	Packing List No.	Violation
44	3/9/2006	304644-003	2B350	Singapore	\$3,915	80094308	15 C.F.R. § 764.2(a)
45	3/24/2006	312016-002	2B350	Malaysia	\$5,091		15 C.F.R. § 764.2(a)
46	3/24/2006	312016-002	2B350	Singapore	\$303	80095018	15 C.F.R. § 764.2(a)
47	3/30/2006	312016-002	2B350	Singapore	\$303	80095132	15 C.F.R. § 764.2(a)
48	4/20/2006	304644-001	2B350	Singapore	\$3,957	80095920	15 C.F.R. § 764.2(a)
49	4/20/2006	304644-001	2B350	Taiwan	\$17,810	80095919	15 C.F.R. § 764.2(a)
50	5/8/2006	312016-001	2B350	Taiwan	\$303	80096565	15 C.F.R. § 764.2(a)
51	5/17/2006	302548-001	2B350	Taiwan			15 C.F.R. § 764.2(a)
52	5/26/2006	302548-001	2B350	Taiwan			15 C.F.R. § 764.2(a)
53	6/15/2006	302323-002	2B350	Taiwan	\$3,208	80097911	15 C.F.R. § 764.2(a)
54	6/26/2006	302548-001	2B350	Taiwan	\$145	80098281	15 C.F.R. § 764.2(a)
55	7/27/2006	304644-003	2B350	PRC			15 C.F.R. § 764.2(a)
56	7/27/2006	312016-002	2B350	Singapore	\$303	80099591	15 C.F.R. § 764.2(a)
57	8/10/2006	312016-002	2B350	Singapore	\$303	80100086	15 C.F.R. § 764.2(a)
58	8/16/2006	312016-002	2B350	Singapore	\$303	80100354	15 C.F.R. § 764.2(a)
59	8/31/2006	312016-001	2B350	Taiwan	\$682	80100939	15 C.F.R. § 764.2(a)
60	8/31/2006	925487-001	2B350	Singapore	\$3,234	80100941	15 C.F.R. § 764.2(a)
61	9/11/2006	312016-002	2B350	Israel	\$1,651	80101319	15 C.F.R. § 764.2(a)
62	9/25/2006	312016-002	2B350	Israel	\$786	80101851	15 C.F.R. § 764.2(a)
63	9/27/2006	312016-001	2B350	Taiwan	\$682	80102021	15 C.F.R. § 764.2(a)
64	10/5/2006	304644-001	2B350	Taiwan	\$8,661	80102295	15 C.F.R. § 764.2(a)
65	10/6/2006	307323-002 315181-002	2B350	Israel	\$4,248	80102326	15 C.F.R. § 764.2(a)
66	10/12/2006	304644-001	2B350	Singapore	\$3,849	80102500	15 C.F.R. § 764.2(a)