

the above-referenced matter. The Recommended Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. After describing the facts of the case and his findings based on those facts, the ALJ found that the respondent had violated Sections 787.2 and 787.4(a) of the Export Administration Regulations by causing, aiding or abetting the export of U.S.-origin microelectronic and fingerprint equipment from the United States to Cuba without obtaining from the Department of Commerce the validated export license that the Respondent knew, or had reason to know, was required by Section 772.1(b) of the Regulations. The ALJ also found that the appropriate penalty for the violations should be that Respondent, Amancio J. Abelairas, also known as Jesus Gonzalez, individually and doing business as Estrella Del Caribe Import and Export, Inc., and all successors, assignees, officers, representatives, agents and employees be denied for a period of ten years from this date all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States and subject to the Export Administration Regulations.

Based on my review of the entire record, I affirm the Recommended Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: June 5, 1995.

William A. Reinsch,
Under Secretary for Export Administration.

Recommended Decision and Order

On September 21, 1993, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), issued a charging letter against Amancio J. Abelairas, also known as Jesus Gonzalez, individually, and doing business as Esrella del Caribe Import and Export, Inc. (hereinafter collectively referred to as Abelairas). The charging letter alleged that Belairas committed two violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768-799 (1994)) (the Regulations),¹ issued

pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401-2420 (1991, Supp. 1993, and Pub. L. No. 103-277, July 5, 1994)) (the Act).²

The charging letter alleged that, on September 30, 1988, Abelairas caused, aided or abetted the export of U.S.-origin microelectronic and fingerprint identification equipment from the United States to Cuba without obtaining from the Department the validated export license Abelairas knew or had reason to know was required by Section 772.1(b) of the Regulations. Accordingly, the Department charged that Abelairas violated Section 787.2 and Section 787.4(a) of the Regulations, for a total of two violations.

Upon receiving the Department's charging letter, Abelairas sent a letter indicating why he believed that he had not violated the Regulations. However, that letter did not constitute an "answer" to the charging letter in accordance with the requirements of Section 788.7 of the Regulations governing answers to charging letters. After Abelairas failed to perfect his filing, the Department, on May 3, 1995, filed supporting evidence for a default judgment against Abelairas.

On the basis of the Department's submission and all of the supporting evidence presented, I have determined that Abelairas violated Sections 787.2 and 787.4(a) of the Export Administration Regulations by causing, aiding or abetting the export of U.S.-origin microelectronic and fingerprint equipment from the United States to Cuba without obtaining from the Department the validated export license Abelairas knew or had reason to know was required by Section 772.1(b) of the Regulations.

For those violations, the Department urged as a sanction that Abelairas's export privileges be denied for 10 years. In light of the nature of the violations, I concur in the Department's recommendation.

Accordingly, it is therefore ordered, First, that all outstanding individual validated licenses in which Amancio Abelairas, also known as Jesus Gonzalez, individually with an address at 6486 S.W. 9th Street, Miami, Florida 33144, and doing business as Estrella

del Caribe Import and Export, Inc., with an address at 5529 S.W. 8th Street, Miami, Florida 33144, appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Abelairas's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

Second, that Amancio Abelairas, also known as Jesus Gonzales, individually with an address at 6486 S.W. 9th Street, Miami, Florida 33144, and doing business as Estrella del Caribe Import and Export, Inc., with an address at 5529 S.W. 8th Street, Miami, Florida 33144 (collectively referred to as Abelairas), and all successors, assigns, officers, representatives, agents, and employees, shall, for a period of 10 years from the date of final agency action, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, and subject to the Regulations.

A. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

B. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to Abelairas by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

¹ The alleged violations occurred during 1988. The Regulations governing the violations are found in the 1988 version of the Code of Federal Regulations, codified at 15 CFR Parts 368-399 (1988). Effective October 1, 1988, the Export Administration Regulations were redesignated as 15

CFR Parts 768-799 (53 FR 37751, September 28, 1988). The transfer merely changed the first number of each Part from "3" to "7". To the degree to which the 1988 version of the Regulations pertains to this matter, it is substantially the same as the 1994 version.

² The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991)).