

ENFORCEMENT INFORMATION FOR AUGUST 8, 2019

Information concerning the civil penalties process can be found in the Office of Foreign Assets Control (OFAC) regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's web site at www.treasury.gov/ofac/enforcement.

ENTITIES - 31 C.F.R. 501.805(d)(1)(i)

OFAC Issues a Finding of Violation to DNI Express Shipping Company for a violation of the Reporting, Procedures and Penalties Regulations: OFAC issued a Finding of Violation to DNI Express Shipping Company ("DNI"), incorporated in McLean, Virginia, for a violation of § 501.602 of the Reporting, Procedures and Penalties Regulations, 31 C.F.R. part 501 (RPPR). Specifically, DNI violated § 501.602 of the RPPR by providing information to OFAC during the pendency of OFAC's investigation, including a subpoena response, that contained contradictory, false, materially inaccurate, materially incomplete, and misleading statements.

On May 29, 2015, OFAC issued an Administrative Subpoena to DNI to investigate its involvement in the facilitation of the shipment, supply, and sale of farm equipment to Sudan in apparent violation of the Sudanese Sanctions Regulations, 31 C.F.R. §§ 538.205, 538.206 (SSR).¹ OFAC issued a Cautionary Letter to DNI for the underlying apparent violations of the SSR, but determined that DNI's conduct in response to OFAC's investigation warranted an administrative response.

On June 12, 2015, through its outside counsel, DNI responded to the administrative subpoena ("administrative subpoena response"). After reviewing DNI's administrative subpoena response, OFAC determined that several of DNI's responses to the administrative subpoena were contradictory, false, materially inaccurate, incomplete, and contained misleading statements.

On July 12, 2016, OFAC sent DNI's outside counsel an e-mail ("administrative subpoena follow-up e-mail"), which, in part, requested clarification on DNI's version of events and supporting documents that DNI had provided to OFAC in response to the administrative subpoena and also sought clarification from DNI about whether it understood its obligations under § 501.602 of the RPPR and § 538.205 of the SSR.

On July 21, 2016, DNI, through its outside counsel, responded to the administrative subpoena follow-up email. OFAC found DNI's responses to the administrative subpoena follow-up email to be contradictory, false, materially inaccurate, incomplete, and misleading. DNI's response also stated that it understood its obligations under § 501.602 of the RPPR and § 538.205 of the SSR. Additionally, DNI's response to the administrative subpoena follow-up email introduced

¹ Pursuant to Executive Order 13761 of January 13, 2017, "Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of Certain Sudan-Related Sanctions," after October 12, 2017, U.S. persons are no longer prohibited from engaging in transactions that were previously prohibited under the SSR.

new information that was responsive to the original administrative subpoena, but was not included in the response to the original administrative subpoena.

The determination to issue a Finding of Violation to DNI in connection with the above violation reflects OFAC's consideration of the following facts and circumstances, pursuant to the General Factors under OFAC's Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A.

OFAC considered the following to be aggravating factors:

- 1) DNI, through counsel, demonstrated reckless disregard for its U.S. sanctions requirements by failing to provide accurate and complete information in response to an OFAC Administrative Subpoena;
- 2) DNI, and its owner, facilitated both the shipment and attempted shipment of goods to Sudan and provided financing for such shipments. Accordingly, DNI had actual knowledge that its responses to OFAC's Administrative Subpoena concerning the facilitation of the shipment and attempted shipment of goods to Sudan and related financing were false, materially inaccurate, materially incomplete, and misleading;
- 3) After supplying OFAC with responses that were false, materially inaccurate, materially incomplete, and misleading, OFAC gave DNI the opportunity to correct or clarify its original responses. However, DNI failed to appropriately amend its responses and instead confirmed its original responses; and
- 4) By providing false, materially inaccurate, materially incomplete, and misleading statements, DNI did not fully cooperate with OFAC's investigation.

OFAC found the following to be mitigating factors: (1) DNI appears to be a small business; (2) DNI has no prior OFAC sanctions history; and (3) DNI's narrative responses appear to have been filtered through DNI's outside attorney.

This enforcement action highlights the compliance obligations of persons subject to the RPPR, and the importance for all subject persons to furnish information to OFAC during the course of an investigation in a manner consistent with such obligations. Companies and individuals alike should be diligent in their review of information and documentation that may be responsive to an administrative subpoena issued by OFAC. A person's response to an administrative subpoena must be accurate, complete, timely, and in accordance with sanctions regulations and definitions. As exhibited in this matter, failure to provide complete or accurate information to OFAC in response to an administrative subpoena constitutes a violation of the RPPR.

For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac