

# Defense contractors caught in anti-boycott blunder

Two US defense contractors attending a trade show in Bahrain in 2019 were penalized by the Bureau of Industry and Security ("BIS") this month for alleged violations of the anti-boycott provisions of the Export Administration Regulations ("EAR").

Phoenix, Arizona-based Profense LLC, paid a civil penalty of \$48,500 in resolution of four alleged violations of the antiboycott regulations while Redmond, Washington's B.E. Meyers & Co, Inc. paid a civil penalty of \$44,750 to settle three alleged violations of the anti-boycott regulations.

The EAR's anti-boycott

provision, Section 760.5 requires companies receiving a request to comply with "restrictive trade practices or foreign boycott against a country friendly to the US" to report those requests to the Department of Commerce. Section 760.2 prohibits US companies or individuals from "furnishing information about business relationships with boycotted countries or blacklisted persons." In these cases, the companies appear to have violated both provisions by signing off and providing information to a freight forwarder stating that the products being shipped to the trade show were not produced in Israel, which is a

common request from companies in the Middle East.

Dj Wolff, a Partner in the DC office of law firm Crowell & Moring, said, "What is unusual about these cases is that the companies did sign an invoice or packing list with prohibited language under the EAR. We often get requests from clients asking for assistance in complying with Section 760.5 and reporting boycott requests to Commerce. Few companies actually sign boycott language."

While the penalties appear relatively small (mainly due to the companies' self-disclosures, cooperation with the investigation, and remedial

actions), the reputational impact to the companies with their stakeholders could be significant. Wolff says that banks will likely send more detailed requests for information to the companies to ensure they are not participating in boycotts or other prohibited trade practices. Customers may also request further assurances in contracts or supplier questionnaires that will create an extra administrative burden.

"The lesson for trade compliance professionals is that products going to trade shows should go through the same export compliance processes as all other products and exports," said Wolff.

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