

ENFORCEMENT INFORMATION FOR JUNE 13, 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 website at www.treasury.gov/ofac/enforcement.

INDIVIDUALS and ENTITIES – 31 CFR 501.805(d)(1)(ii)

An Individual and Cubasphere Inc. Settle Potential Civil Liability for Apparent Violations of the Cuban Assets Control Regulations: An individual (the "Individual"), as well as Cubasphere Inc. ("Cubasphere"), on whose behalf the Individual also acted, have agreed to pay \$40,320 to settle their potential civil liability for apparent violations of the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR). The Individual and Cubasphere appear to have violated the CACR by engaging in unauthorized travel-related transactions to and within Cuba.

Specifically, the Individual and Cubasphere appear to have dealt in property in which Cuba or Cuban nationals had an interest in violation of § 515.201(b)(1) of the CACR by engaging in unauthorized Cuba travel-related transactions and by providing unauthorized Cuba travel services to 104 persons on four separate trips from on or about December 30, 2013 to on or about February 22, 2014. While acting as full-service tour operators, the Individual and Cubasphere received direct payments from groups and individuals for Cuba travel-related transactions, and handled itinerary planning, such as making reservations and payments for air travel, hotels, meals, and transportation within Cuba. The Individual and Cubasphere also procured Cuban visas and cover letters for travelers from U.S. religious organizations that cited the general license in § 515.566 of the CACR. However, the itineraries from the U.S. religious organizations did not match the itineraries that the Individual and Cubasphere offered their customers. The actual itineraries for the Cuba trips focused primarily on sightseeing and tourism activities rather than humanitarian or religious activities. Through correspondence with OFAC, the Individual and Cubasphere had prior notice that their conduct constituted, or likely constituted, apparent violations of the CACR, yet the Individual and Cubasphere continued to organize, plan, and carry out unauthorized Cuba travel-related transactions for more than a year.

The Individual and Cubasphere also took steps to urge clients to conceal their travel to, and unauthorized activities in, Cuba. The Individual and Cubasphere routinely suggested in writing that the customers should minimize their interactions with U.S. government officials upon their return to the United States, ensure that they have no receipts or schedules from their trip, and give false statements if they were asked about their activities in Cuba.

The Cuba Penalty Schedule, 68 Fed. Reg. 4429 (Jan. 29, 2003), sets a \$2,000 penalty for the provision of travel services occurring "prior to agency notice," plus \$500 per person assisted, and a \$15,000 penalty for the provision of travel services occurring "subsequent to agency notice," plus \$500 per person assisted. OFAC determined that the apparent violations were not voluntarily self-disclosed to OFAC, and that the apparent violations occurred subsequent to

agency notice. The base civil monetary penalty amount for the apparent violations was \$112,000.

The settlement amount 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) the Individual appears to have willfully engaged in the apparent violations involving Cuba with knowledge that such transactions likely constituted violations of the CACR;
- (2) the Individual appears to have knowingly facilitated unauthorized travel to Cuba by other persons that appears to have violated the CACR;
- (3) given the seriousness of the apparent violations, the publicity given to apparent violations by the Individual, and the fact that the conduct would likely not have been licensed under then-existing OFAC licensing policy, the apparent violations resulted in significant harm to the CACR sanctions programs;
- (4) Cubasphere did not maintain adequate OFAC sanctions compliance procedures at the time of the apparent violations; and
- (5) neither the Individual nor Cubasphere appear to have taken any remedial actions in response to the apparent violations.

OFAC determined there were mitigating factors:

- (1) neither the Individual nor Cubasphere has any prior sanctions history with OFAC, including receipt of a penalty notice or Finding of Violation in the five years preceding the earliest date of the apparent violations;
- (2) the Individual is a natural person and the president of Cubasphere, a relatively small company with few employees; and
- (3) the Individual cooperated with OFAC during post-investigation proceedings, including entering into a tolling agreement with OFAC.

This enforcement action highlights the importance of compliance with the CACR for all travelers and travel service providers subject to the jurisdiction of the United States. OFAC continues to fully enforce the CACR, including restrictions on U.S. person travel-related transactions with respect to Cuba, which are generally prohibited under § 515.201(b)(1) and §§ 515.415 and 515.420 of the CACR, except as authorized by OFAC. Travel-related transactions to, from, or involving Cuba, that do not meet the full criteria and conditions of an OFAC specific or general license are prohibited. For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac.