



DEPARTMENT OF THE TREASURY
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OFAC Settles with an Individual with Respect to Potential Civil Liability for Apparent Violations of the Foreign Narcotics Kingpin Sanctions Regulations

A natural U.S. person (“U.S. Person-1”) has agreed to pay \$5,000 to settle their potential civil liability for engaging in at least 24 transactions for the benefit of a foreign individual who at the time was a specially designated narcotics trafficker. The apparent violations arose out of a personal relationship that U.S. Person-1 maintained with the specially designated narcotics trafficker while U.S. Person-1 was stationed overseas at a U.S. embassy.

Description of the Apparent Violations and the Conduct Leading to the Apparent Violations

At the time of the apparent violations, U.S. Person-1 was a civilian direct hire of the U.S. Army and stationed in the U.S. embassy in Bogota, Colombia (the “embassy”). U.S. Person-1’s position at the embassy required a security clearance. U.S. Person-1 also held many national security-related positions prior to being stationed at the embassy.

In 2015, the foreign individual, who at the time was a specially designated narcotics trafficker (“SDNT-1”), was in the embassy for a meeting regarding their designation status (the “embassy meeting”).¹ For the embassy meeting, SDNT-1 was accompanied by a former host nation official who OFAC would also later designate as a specially designated narcotics trafficker (“SDNT-2”). Although U.S. Person-1 was not party to the embassy meeting nor involved in the topics discussed, U.S. Person-1 had a preexisting professional relationship with SDNT-2 at the time.² After the embassy meeting, SDNT-2 introduced SDNT-1 to U.S. Person-1. Shortly thereafter, U.S. Person-1 and SDNT-1 maintained contact and started a personal relationship.

U.S. Person-1 was aware that they were having a personal relationship with a specially designated narcotics trafficker. Nonetheless, over the course of a year, U.S. Person-1 bought jewelry, meals, clothing, hotel rooms, and other gifts for SDNT-1 while SDNT-1 was seeking to be removed from the SDN List. During the relationship, U.S. Person-1 conducted internet research concerning the legality of engaging in transactions with persons on OFAC’s Specially Designated National and Blocked Persons List (the “SDN List”), but did not seek further counseling or advice from the various government and legal resources that were readily available in the embassy or by their employer.

As a result, U.S. Person-1 appears to have violated 31 C.F.R. § 598.203 of the Foreign Narcotics Kingpin Sanctions Regulations, 31 C.F.R. part 598 (FNKSR) on at least 24 occasions when U.S. Person-1 engaged in transactions that constituted prohibited dealings in blocked property or interests in property of an individual previously identified on the SDN List as a specially designated

¹ U.S. Person-1 is not, and has never been, affiliated with or employed by OFAC. U.S. Person-1 did not participate in, attend, or have any direct or indirect role in the embassy meeting.

² SDNT-2 was not designated until after U.S. Person-1 engaged in the Apparent Violations with SDNT-1.

narcotics trafficker (the “Apparent Violations”). The total transaction value of the Apparent Violations was about \$3,349.33.

Penalty Calculations and General Factors Analysis

The statutory maximum civil monetary penalty applicable in this matter is \$36,264,793. OFAC determined that U.S. Person-1 did not voluntarily self-disclose the Apparent Violations and that the Apparent Violations constitute an egregious case. Accordingly, under OFAC’s Economic Sanctions Enforcement Guidelines (“Enforcement Guidelines”), the base civil monetary penalty amount applicable in this matter is the statutory maximum of \$36,264,793.

The settlement amount of \$5,000 reflects OFAC’s consideration of the General Factors under the Enforcement Guidelines. Specifically, OFAC determined the following to be aggravating factors:

- (1) U.S. Person-1 failed to exercise an appropriate degree of caution or care with respect to the conduct that led to the Apparent Violations. This included, but was not limited to, U.S. Person-1’s failure to approach or use any of the OFAC personnel or other resources available to them to resolve issues arising from forming a new relationship with a foreign person who was also a specially designated narcotics trafficker;
- (2) U.S. Person-1 was aware that they formed and then maintained a voluntary relationship with a specially designated narcotics trafficker and had actual knowledge of the conduct that led to the Apparent Violations;
- (3) U.S. Person-1’s relationship and transactions with a specially designated narcotics trafficker while that person sought reconsideration of their designation created a perception of impropriety that harms the integrity of all sanctions programs; and
- (4) As a U.S. government employee stationed overseas in a national security position, U.S. Person-1 failed to exercise judgment and an expected degree of caution or care commensurate with that position.

OFAC determined the following to be mitigating factors:

- (1) U.S. Person-1 was relieved of their duties and is no longer employed by the U.S. government. Additionally, the U.S. Army has taken significant disciplinary action against U.S. Person-1 in connection with this matter;
- (2) U.S. Person-1 is a natural person who does not appear to have any prior experience with sanctions compliance;
- (3) Most of the transactions engaged in by U.S. Person-1 for or on behalf of the specially designated narcotics trafficker appear to have been personal in nature and involve goods with a single, immediate, and one-time use with limited or exhausted secondary value; and

(4) U.S. Person-1 cooperated with OFAC when interviewed and was expeditious and organized in their subpoena response and subsequent communications.

Compliance Considerations

All U.S. persons, including members of the military and civil service stationed abroad, should exercise caution before voluntarily engaging in relationships with foreign persons that the U.S. person knows, or reasonably should know, may have a sanctions nexus, as any financial transaction or exchange of goods or services with a designated person — even in the context of a personal relationship — may constitute a violation of U.S. sanctions. Those serving in national security positions should be particularly cautious, especially when their voluntary relationships can harm or give the appearance of harming the integrity of government processes.

OFAC Enforcement and Compliance Resources

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

Information concerning the civil penalties process can be found in the 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.

On May 2, 2019, OFAC published [A Framework for OFAC Compliance Commitments](#) in order to provide organizations subject to U.S. jurisdiction, as well as foreign entities that conduct business in or with the United States or U.S. persons, or that use U.S.-origin goods or services, with OFAC's perspective on the essential components of a sanctions compliance program. The *Framework* also outlines how OFAC may incorporate these components into its evaluation of apparent violations and resolution of investigations resulting in settlements. The *Framework* includes an appendix that offers a brief analysis of some of the root causes of apparent violations of U.S. economic and trade sanctions programs OFAC has identified during its investigative process.