



Case Study: Fake Defense Contractor Indicted for Exporting Military Related Drawings to Turkey

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On September 5, 2018, the owner of a New Jersey defense contracting firm, Ferdi Murat Gul, was indicted by a grand jury in the United States District Court in the District of New Jersey on charges of wire fraud, conspiracy to commit wire fraud, violating the Arms Export Control Act (AECA), and conspiracy to violate the AECA.¹ Gul, a Turkish citizen, is the principal owner, chief executive officer, and general manager of two U.S.-based businesses: an alleged defense contracting company, Bright Machinery Manufacturing Group Inc. (BMM), and an alleged manufacturing company, FMG Machinery Group (FMG), and also holds ownership interests in a manufacturing company in Turkey, HFMG Insaat (HFMG).²

From October 2010 to June 2015, BMM was awarded approximately \$7 million in 346 U.S. Department of Defense (DOD) Defense Logistics Agency (DLA) contracts to manufacture military parts in the United States and provide them to DOD customers, such as the Army, Navy, Air Force, Marine Corps, and Coast Guard. But according to the indictment, in reality, BMM was a front company set up with the purpose of defrauding the United States. The parts it manufactured included those “for torpedoes for the U.S. Navy, bomb ejector racks and armament utilized in U.S. Air Force aircraft, and firearms and mine clearance systems used by U.S. military personnel abroad.”³ Allegedly, Gul and two unnamed, un-indicted co-conspirators falsely claimed that BMM manufactured these parts in the United States. However, the indictment alleges that BMM illegally exported technical military drawings to manufacture the parts in Turkey, and then sold the parts – some of which had “design flaws and non-conformities and were unusable” – to U.S. customers.⁴

¹ U.S. Department of Justice, Press Release, “Owner of Defense Firm Charged with Conspiracy to Defraud Department of Defense of \$7 Million, Violate Arms Export Control Act,” September 6, 2018, <https://www.justice.gov/usao-nj/pr/owner-defense-firm-charged-conspiracy-defraud-department-defense-7-million-violate-arms>

² United States District Court in the District of New Jersey, *Indictment: United States of America v. Ferdi Murat Gul, a/k/a “Fred Gul,”* September 5, 2018. Available at: <https://www.justice.gov/usao-nj/press-release/file/1092036/download>

³ “Owner of Defense Firm Charged,” September 6, 2018.

⁴ Ibid.

One of Gul's co-conspirators, a U.S. citizen, served as the contracts' primary point of contact and apparently went through government-mandated certifications to register BMM as a contractor. Gul and his two co-conspirators allegedly forged documentation and certifications to falsely represent BMM as a U.S. domestic manufacturer. This meant that all military parts supplied by BMM had to be "Domestic End Products," or 50 percent of the total cost of parts had to be comprised of components mined, produced, and manufactured in the United States. As a foreign contractor, HFMG was "only permitted to supply 'Qualifying Country End Products' (i.e. foreign-made products) from Turkey to U.S. vendors." It was not permitted to supply Domestic End Products.

Gul is charged with falsely representing the location of BMM's manufacturing operations to obtain contracts with the DOD and exporting and conspiring to export technical military drawings to Turkey without a license. The AECA "prohibits the export of defense articles and defense services without first obtaining a license from the U.S. Department of State."⁵ Gul faces a maximum penalty of 20 years in prison and a \$250,000 fine for each wire fraud count, and another 20 years in prison and a \$1 million fine for each AECA violation, if apprehended. U.S. authorities believe Gul is at large in Turkey. It is not known whether Gul transferred the U.S. military part drawings to others.

The Scheme

Around August 2006, Gul registered HFMG as a foreign contractor in the United States. Foreign contractors, apart from some in Canada, are ineligible from receiving U.S. government contracts. Authorities later learned that around August 2010, Gul set up a U.S. "front company," and registered it as BMM. It was purportedly a domestic contractor that could electronically bid on and acquire government contracts. Military part drawings subject to U.S. export controls can only be accessed after obtaining "certification through the U.S./Canada Joint Certification Program (JCP)." According to the indictment, contractors must complete and submit a Military Critical Technical Data Agreement as part of the application process. The agreement states, among other points, that the contractor understands U.S. export control laws and agrees "not to disseminate the drawings and technical data in a manner that would violate those export control laws."⁶ Before shipping parts they manufacture to DOD customers, contractors are subject to in-person visits by Defense Contract Management Agency (DCRA) personnel to inspect the parts for quality assurance. Gul and his associates allegedly circumvented this requirement by hiring U.S.-based subcontractors to forge certifications, which asserted that "necessary tests and processes" had been performed on the parts.

BMM bid on several contracts to supply Domestic End Products to the DOD. Once BMM acquired a contract, Gul and his associates then accessed the technical military drawings through an electronic government database. The drawings were available only to the contract

⁵ Ibid.

⁶ *Indictment: United States of America v. Ferdi Murat Gul.*

awardee's point of contact, which BMM listed as one of Gul's two co-conspirators, the U.S. citizen.

Gul falsely agreed that BMM would not disseminate this information, but allegedly violated export control laws by sending the information to HFMG in Turkey without a license. The AECA authorized the control of the export of defense articles and services. "Export" is defined by the International Traffic in Arms Regulations (ITAR) as, "sending or taking a defense article out of the United States in any manner...or disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad..."⁷ Defense articles and services are defined by ITAR as any item on the United States Munitions List (USML). Any exporter of defense articles or services on the USML is required to register with the U.S. Department of State's Directorate of Defense Trade Controls (DDTC) and receive a license or other authorization to export such items from the United States. Neither Gul nor any of his co-conspirators applied for or received a license for the DDTC to export technical military information and drawings to Turkey. Further, the indictment states that Gul disseminated this information via computer uploads and e-mailing export-controlled information to Turkey.

Example Violation: Alleged Wire Fraud

Around January 2013, Gul allegedly submitted a fraudulent bid for a contract to supply parts to DLA to aid fuel flow for two types of torpedoes. Only U.S.-based contractors with JCP certification were eligible for this contract, so allegedly, Gul falsely stated that BMM was a U.S.-based manufacturer that would supply Domestic End Product. Around April 2013, BMM was awarded the contract. According to the indictment, around August 2013, Gul sent fraudulent information and forged certification to the QAR that was assigned by DOD to inspect the parts purportedly manufactured by BMM. The QAR met Gul's co-conspirator at BMM's New Jersey office to inspect the parts it was contracted to manufacture. In accordance with Gul's alleged, forged documentation, the co-conspirator falsely confirmed to the QAR that processes and testing requirements were met during the purported domestic manufacturing process, which they falsely stated had occurred at BMM in New Jersey. Around September 2013, BMM delivered the torpedo parts to DLA, which were not Domestic End Products. Upon payment by the DOD, BMM sent a wire transfer for the payment amount from its accounts to the FMG accounts, then from the FMG accounts to an HFMG account in Turkey. In this example, Gul allegedly committed wire fraud by obtaining money from the DOD under false pretenses and fraudulent representations.

Example Violation: Violating the AECA

Around September 2013, Gul allegedly submitted a fraudulent bid for a contract to supply component parts to DLA for the AC 130H Gunship's 40mm cannon weapon system. After bidding on the contract, Gul downloaded the necessary technical drawings needed to

⁷ "The International Traffic in Arms Regulations (ITAR)," *Title 22 § 120-130*, Available at: https://www.pmdotc.state.gov/?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987

manufacture the parts. These drawings were listed as defense articles on the USML. According to the indictment, Gul knowingly exported these drawings to Turkey without the required license or authorization. Around October 2013, Gul acquired the contract to manufacture the cannon parts. Both electronically and in person, Gul allegedly provided false information and forged certifications to a DOD representative, fraudulently stating that BMM performed the necessary testing and processes during its domestic manufacturing of the parts. In this example, Gul allegedly, knowingly exported controlled information to Turkey without a license, thereby violating the AECA.

Lessons and Recommendations

This case shows that although the United States has export control laws in place, it remains difficult to regulate controls on information transfer. In this case, Ferdi Murat Gul allegedly put in place an egregious scheme to misrepresent himself and his co-conspirators as defense contractors and consistently violated U.S. laws for five years before being detected. DOD may need to re-evaluate how it authorizes contractors and allows them to access sensitive information. Required certifications and proof of authorization for domestic manufacturing should not be easy to forge, and the same is true for proof of testing of parts that the Gul network allegedly represented to the government.

Stronger requirements throughout the process of government contracting could minimize the ability of shell companies to falsely represent themselves to the federal government. Without strong infrastructure and procedures in place to ensure that contractors are truly authorized to manufacture U.S. military parts and gain access to sensitive information, the United States cannot adequately monitor and ensure the regulations are being followed. Moreover, it is not known whether Gul passed on or sold the drawings over which he gained access to other parties. If so, as a result of this scheme, this information may now be in the hands of other actors, perhaps U.S. adversaries such as Iran or Russia.

This case also shows the difficulty of detecting and intercepting illicit shipments. It is not described in the indictment how Gul managed to send the military parts he manufactured to the United States from Turkey. The primary burden for detecting such shipments lies with the exporting state. Turkey should improve the strength of its ability to monitor and detect strategic trade and ability to enforce its export control laws, findings supported by the Institute's *Peddling Peril Index for 2017*, which ranks national strategic export control systems. Turkey did not perform well in the ranking on these two capabilities.⁸

⁸ David Albright, Sarah Burkhard, Allison Lach, and Andrea Stricker, *Peddling Peril Index for 2017: The First Ranking of National Strategic Export Control Systems* (Washington, D.C.: Institute for Science and International Security, 2018). Available at: http://isis-online.org/uploads/isis-reports/documents/ThePeddlingPerilIndex_POD_color.pdf