

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

_____)	
In the Matter of:)	
)	
EHI Group USA, Inc.)	Docket No.: 06-BIS-18
10677 C Rosewood Road)	
Cupertino, CA 95014)	
)	
Respondent)	

ORDER RELATING TO EHI GROUP USA, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has initiated an administrative proceeding against EHI Group USA, Inc. (“EHI”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a charging letter to EHI that alleged that EHI committed 3 violations of the Regulations. Specifically, the charges are:

Charge 1: 15 C.F.R § 764.2(d) - Conspiracy to Export Microwave Amplifiers to China without the required Department of Commerce License

¹ The violations alleged to have been committed occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001-2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2007 Regulations establish the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

Beginning in or about September 2001 and continuing into or about May 2002, EHI conspired and acted in concert with others, known and unknown, to bring about or to do an act that constitutes a violation of the Regulations. Specifically, EHI conspired to export microwave amplifiers from the United States to the People's Republic of China ("China") without the required Department of Commerce license. The goal of the conspiracy was to obtain microwave amplifiers on behalf of a Chinese end-user and to export those microwave amplifiers to China. In furtherance of the conspiracy, EHI acquired the microwave amplifiers from a U.S. company and then exported them from the United States to China. The microwave amplifiers were items subject to the Regulations and were classified under export control classification number ("ECCN") 3A001. Contrary to Section 742.4 of the Regulations, no Department of Commerce license was obtained for the export of the amplifiers from the United States to China. In so doing, EHI committed one violation of Section 764.2(d) of the Regulations.

**Charge 2: 15 C.F.R. § 764.2(a): Exporting Microwave Amplifiers
Without the Required Department of Commerce License**

On or about May 22, 2002, EHI engaged in conduct prohibited by the Regulations by exporting microwave amplifiers, items subject to the Regulations and classified under ECCN 3A001, from the United States to China, without obtaining a license from the Department of Commerce as required by Section 742.4 of the Regulations. In so doing, EHI committed one violation of Section 764.2(a) of the Regulations.

**Charge 3: 15 C.F.R. § 764.2(e): Acting With Knowledge That a Violation
of the Regulations Would Occur**

In connection with the transaction referenced above, EHI ordered or transferred microwave amplifiers that were to be exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, EHI had knowledge that a license was required for the export as EHI was advised by an individual in China that the items in question were classified as ECCN 3A001 and subject to U.S. export regulations. Furthermore, EHI had knowledge of the Regulations, as Mr. Qing Chang Jiang, President of EHI, had met with officials from BIS on several occasions to discuss the Regulations and the export of microwave amplifiers to China. In addition, EHI submitted an export application to the Department of Commerce for the microwave amplifiers described above and exported those amplifiers during the pendency of that application. As such, EHI, at all relevant times, knew that the items required a license if exported to China and that no such license would be obtained. In so doing, EHI committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and EHI have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$17,000 is assessed against EHI, of which \$500 shall be paid to the U.S. Department of Commerce not later than November 1, 2007; \$500 shall be paid to the U.S. Department of Commerce not later than February 1, 2008; \$5,000 shall be paid to the U.S. Department of Commerce not later than May 1, 2008; and the balance of \$11,000 shall be paid to the U.S. Department of Commerce not later than August 1, 2008. Payment shall be made in the manner specified in the attached instructions.

SECOND, for a period of five years from the date of entry of this Order, EHI Group USA, Inc., 10677 C Rosewood Road, Cupertino, CA 95014, its successors or assigns, and when acting for or on behalf of EHI, its representatives, agents, officers or employees ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving

- any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

THIRD, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item,

of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FOURTH, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to EHI by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

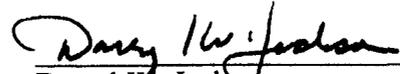
FIFTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

SIXTH, that the charging letter, the Settlement Agreement, this Order, and the record of this case as defined by Section 766.20 of the Regulations shall be made available to the public.

SEVENTH, that the administrative law judge shall be notified that this case is withdrawn from adjudication.

EIGHTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the Federal Register.

This Order, which constitutes the final agency action in this matter, is effective immediately.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 6th day of August, 2007.

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
EHI Group USA, Inc.)
10677 C Rosewood Road)
Cupertino, CA 95014)
)

Respondent)

Docket No.: 06-BIS-18

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between EHI Group USA, Inc. (referred to hereinafter as "EHI") and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act"),²

WHEREAS, BIS has initiated an administrative proceeding against EHI, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a charging letter to EHI that alleged that EHI committed 3 violations of the Regulations, specifically:

¹ The violations alleged to have been committed occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001-2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2007 Regulations establish the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) ("IEEPA").

Settlement Agreement
EHI Group USA, Inc.
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Charge 1: 15 C.F.R § 764.2(d) - Conspiracy to Export Microwave Amplifiers to China without the required Department of Commerce License

Beginning in or about September 2001 and continuing into or about May 2002, EHI conspired and acted in concert with others, known and unknown, to bring about or to do an act that constitutes a violation of the Regulations. Specifically, EHI conspired to export microwave amplifiers from the United States to the People's Republic of China ("China") without the required Department of Commerce license. The goal of the conspiracy was to obtain microwave amplifiers on behalf of a Chinese end-user and to export those microwave amplifiers to China. In furtherance of the conspiracy, EHI acquired the microwave amplifiers from a U.S. company and then exported them from the United States to China. The microwave amplifiers were items subject to the Regulations and were classified under export control classification number ("ECCN") 3A001. Contrary to Section 742.4 of the Regulations, no Department of Commerce license was obtained for the export of the amplifiers from the United States to China. In so doing, EHI committed one violation of Section 764.2(d) of the Regulations.

Charge 2: 15 C.F.R. § 764.2(a): Exporting Microwave Amplifiers Without the Required Department of Commerce License

On or about May 22, 2002, EHI engaged in conduct prohibited by the Regulations by exporting microwave amplifiers, items subject to the Regulations and classified under ECCN 3A001, from the United States to China, without obtaining a license from the Department of Commerce as required by Section 742.4 of the Regulations. In so doing, EHI committed one violation of Section 764.2(a) of the Regulations.

Charge 3: 15 C.F.R. § 764.2(e): Acting With Knowledge That a Violation of the Regulations Would Occur

In connection with the transaction referenced above, EHI ordered or transferred microwave amplifiers that were to be exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, EHI had knowledge that a license was required for the export as EHI was advised by an individual in China that the items in question were classified as ECCN 3A001 and subject to U.S. export regulations. Furthermore, EHI had knowledge of the Regulations, as Mr. Qing Chang Jiang, President of EHI, had met with officials from BIS on several occasions to discuss the Regulations and the export of microwave amplifiers to China. In addition, EHI submitted an export application to the Department of Commerce for the microwave amplifiers described above and exported those amplifiers during the pendency of that application. As such, EHI, at all relevant times, knew that the items required a license if exported to China and that no such license would be obtained. In so doing, EHI committed one violation of Section 764.2(e) of the Regulations.

Settlement Agreement
EHI Group USA, Inc.
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WHEREAS, EHI has reviewed the charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against EHI if the allegations are found to be true;

WHEREAS, EHI fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, EHI enters into this Agreement voluntarily and with full knowledge of its rights;

WHEREAS, EHI states that no promises or representations have been made to it other than the agreements and considerations herein expressed;

WHEREAS, EHI neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, EHI wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, EHI agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over EHI, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanction shall be imposed against EHI in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the charging letter:
 - a. EHI shall be assessed a civil penalty in the amount of \$17,000, of which \$500 shall be paid to the U.S. Department of Commerce not later than November 1, 2007; \$500 shall be paid to the U.S.

Settlement Agreement
EHI Group USA, Inc.
Page 4 of 6

Department of Commerce not later than February 1, 2008; \$5,000 shall be paid to the U.S. Department of Commerce not later than May 1, 2008; and the balance of \$11,000 shall be paid to the U.S. Department of Commerce not later than August 1, 2008.

- b. For a period of five years from the date of entry of the Order, EHI, its successors or assigns, and, when acting for or on behalf of EHI, its representatives, agents, officers or employees ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
- i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

Settlement Agreement
EHI Group USA, Inc.
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- iii. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, EHI hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$17,000 civil penalty, BIS will not initiate any further administrative proceeding against EHI in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

Settlement Agreement
EHI Group USA, Inc.
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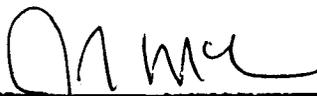
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

EHI GROUP USA, INC.



John McKenna
Acting Director
Office of Export Enforcement



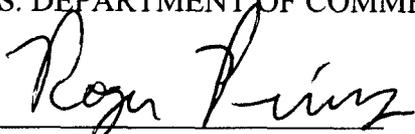
Qing Chang Jiang
President

Date: 7/20/07

Date: 07/25/2007

Settlement Agreement
EHI Group USA, Inc.
Addendum

BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Roger Pincus
Acting Chief Counsel
Office of the Chief Counsel
for Industry and Security

Date: 8/8/07

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

EHI Group USA, Inc.
10677-C Rosewood Road
Cupertino, CA 95014

Attn: *Qing Chang Jiang*
President

Dear Mr. Jiang:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that EHI Group USA, Inc. (hereafter "EHI") of Cupertino, California, has committed three violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that EHI committed the following violations:

Charge 1: 15 C.F.R § 764.2(d) - Conspiracy to Export Microwave Amplifiers to China without the required Department of Commerce License:

Beginning in or about September 2001 and continuing into or about May 2002, EHI conspired and acted in concert with others, known and unknown, to bring about or to do an act that constitutes a violation of the Regulations. Specifically, EHI conspired to export microwave amplifiers from the United States to the People's Republic of China ("China") without the required Department of Commerce license. The goal of the conspiracy was to obtain microwave amplifiers on behalf of a Chinese end-user and to export those microwave amplifiers to China. In furtherance of the conspiracy, EHI acquired the microwave amplifiers from a U.S. company and then exported them from the United States to China. The microwave amplifiers were items subject to the Regulations and were classified under export control classification number ("ECCN") 3A001. Contrary to Section 742.4 of the Regulations, no Department of Commerce

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The charged violations occurred between 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 through 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001 – 2002)). The 2006 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). The Act lapsed on August 21, 2001, and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 Fed. Reg. 44,551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

license was obtained for the export of the amplifiers from the United States to China. In so doing, EHI committed one violation of Section 764.2(d) of the Regulations.

Charge 2: 15 C.F.R. § 764.2(a): Exporting Microwave Amplifiers Without the Required Department of Commerce License:

On or about May 22, 2002, EHI engaged in conduct prohibited by the Regulations by exporting microwave amplifiers, items subject to the Regulations and classified under ECCN 3A001, from the United States to China, without obtaining a license from the Department of Commerce as required by Section 742.4 of the Regulations. In so doing, EHI committed one violation of Section 764.2(a) of the Regulations.

Charge 3: 15 C.F.R. § 764.2(e): Acting With Knowledge That a Violation of the Regulations Would Occur:

In connection with the transaction referenced above, EHI ordered or transferred microwave amplifiers that were to be exported from the United States with knowledge that a violation of the Regulations would occur. Specifically, EHI had knowledge that a license was required for the export as EHI was advised by an individual in China that the items in question were classified as ECCN 3A001 and subject to U.S. export regulations. Furthermore, EHI had knowledge of the Regulations, as Mr. Qing Chang Jiang, President of EHI, had met with officials from BIS on several occasions to discuss the Regulations and the export of microwave amplifiers to China. In addition, EHI submitted an export application to the Department of Commerce for the microwave amplifiers described above and exported those amplifiers during the pendency of that application. As such, EHI, at all relevant times, knew that the items required a license if exported to China and that no such license would be obtained. In so doing, EHI committed one violation of Section 764.2(e) of the Regulations.

* * * *

Accordingly, EHI is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

³ 15 C.F.R. § 6.4 (2002), *as corrected by* 68 Fed. Reg. 4,380 (Jan. 29, 2003), *and* 68 Fed. Reg. 69,001 (Dec. 11, 2003).

EHI
Charging Letter
Page 3 of 4

If EHI fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. *See* 15 C.F.R. §§ 766.6 and 766.7. If EHI defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to EHI. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for each charge in this letter.

EHI is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. EHI is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should EHI have a proposal to settle this case, EHI or its representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, EHI's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of EHI's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: James C. Pelletier, Esq.
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

James C. Pelletier is the attorney representing BIS in this case; any communications that EHI may wish to have concerning this matter should occur through him. Mr. Pelletier may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement