

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

In the Matter of:)
Howard L. Combs)
12414 Lighthouse Way Drive)
Apt. H)
St. Louis, MO 63141)
Respondent)

ORDER RELATING TO HOWARD L. COMBS

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Howard L. Combs (“Combs”) of its intention to initiate an administrative proceeding against Combs pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Combs that alleged that he committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy

Between on or about January 21, 2006 through on or about February 15, 2006, Combs conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to bring about the export from the United States of epoxy paint and epoxy paint thinner,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violation occurred in 2006. The Regulations governing the violations at issue are found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

items subject to the Regulations, for use in a nuclear power plant that was under construction in Islamabad, Pakistan and under the ownership and control of the Pakistan Atomic Energy Commission (“PAEC”), without the required Department of Commerce license. PAEC is an entity that is listed on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. The nuclear plant was being constructed for PAEC by China Zhongyuan Engineering Corporation (“Zhongyuan”), with the assistance of subcontractor China Nuclear Engineering Huaxing Construction Co. Ltd. (“Huaxing”). The epoxy paint and thinner, which were designated as EAR99³ and valued at approximately \$24,588.60, were for use in a nuclear reactor and core and were certified as meeting “Level 1” industry standards for such use. A license was required for any export or reexport of these items to PAEC or any PAEC nuclear power plant facility pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations.

In furtherance of the conspiracy, Combs, who at the time was the Director of Business Development and Support at PPG Industries, Inc. (“PPG”), took actions designed to make the transaction appear to be a domestic sale in the United States between PPG and Innovative Decoration International Inc. (“IDI”), a PPG distributor with offices in both the United States and China, when, in fact, the items were to fulfill a contractual agreement between Huaxing and a PPG subsidiary, PPG Paints Trading (Shanghai) Co., Ltd. (“PPG Paints Trading”). The epoxy paint and thinner were destined for use at the PAEC nuclear plant. Combs acted in concert with IDI, Huaxing and others to structure the transaction so that the items would be picked up by IDI’s freight forwarder in the United States and transshipped through Hong Kong to Pakistan. With the assistance of IDI, he arranged for a freight forwarder to pick up the epoxy paint and thinner from PPG’s facilities in Watertown, Connecticut to ensure delivery by the February 26, 2006 deadline as agreed to by PPG Paints Trading and Huaxing. He directed his employee to take the final steps to secure shipment through the arrangement that IDI offered by calling IDI’s representative.

Combs knew that the shipment to PAEC required a license and that export of the items to the PAEC facility through Hong Kong was a violation of the Regulations because he had been informed by PPG’s legal and compliance departments that, “legal guidance indicates no way around obtaining the license prior to delivering the product to Pakistan. No 3rd party involvement or shipping to Tianjin and then to Pakistan is a possibility. These processes would be viewed as ‘intentional violation’ and would result in fines and jail time.” In addition, at the time of the conspiracy, Combs was aware that PPG had submitted a license application to the Department of Commerce relating to the Huaxing contract orders only on or about January 20, 2006, and that the application remained pending and that no license had been issued at the time of his actions in furtherance of the conspiracy.

In so doing, Combs committed one violation of Section 764.2(d) of the Regulations.

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2011).

WHEREAS, BIS and Combs have entered into a Settlement Agreement pursuant to Section 766.18(a) 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, Combs shall be assessed a civil penalty in the amount of \$250,000. Combs shall pay \$15,000 to the U.S. Department of Commerce within 120 days of the date of the Order. Combs shall pay the U.S. Department of Commerce \$15,000 not later than March 30, 2012; and \$20,000 not later than July 31, 2012. Payment of the remaining \$200,000 shall be suspended for a period of two years from the date of issuance of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period, Combs has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$50,000 as set forth above.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Combs will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, Combs shall complete annual export compliance training on the Regulations every twelve months for the period from the date of the Order until five years from the date of the Order. Before he attends a training course or program, Combs

shall notify the Office of Export Enforcement, Special Agent in Charge of the New York Office, of the course or program he has selected to attend. By the end of every such twelve-month period, Combs shall attend an export compliance training course or program, and no later than one month after attending a compliance course or program, Combs shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 1200 South Avenue, Room 104, Staten Island, NY 10314.

FOURTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above, and the timely completion and submission of verification of attendance at an export compliance training, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Combs.

FIFTH, Combs shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Comb's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

SIXTH, that for a period of five (5) years from the date of entry of the Order, Howard L. Combs, with a last known address of 12414 Lighthouse Way Drive, Apt. H, St. Louis, Missouri 63141, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate 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.

SEVENTH, 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.

EIGHTH, 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 the Denied Person 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 the Order.

NINTH, that, as authorized by Section 766.18(c) of the Regulations, the five-year denial period set forth above shall be suspended during a probationary period of five years from the date of this Order, and shall thereafter be waived, provided that during the probationary period under this Order, Combs has made full and timely payment of each civil penalty payment in accordance with the payment schedule set forth above, has timely completed and submitted verification of attendance at the annual export compliance training as set forth above, and has committed no other violation of the Act or any regulation, order or license issued thereunder. If Combs does not make full and timely payment of each civil penalty payment in accordance with the payment schedule

set forth above, does not timely complete and submit verification of attendance at the annual export compliance training as set forth above, or commits another violation during the probationary period, the suspension may be modified or revoked by BIS and a denial order including a five-year denial period activated against Combs.

TENTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

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



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 25 day of August, 2011.

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

In the Matter of:)
Howard L. Combs)
12414 Lighthouse Way Drive)
Apt. H)
St. Louis, MO 63141)

Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Howard L. Combs (“Combs”) 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 (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

WHEREAS, BIS has notified Combs of its intention to initiate an administrative proceeding against him, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Combs that alleged that Combs committed one violation of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violation occurred in 2006. The Regulations governing the violations at issue is found in the 2006 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

Charge 1

15 C.F.R. § 764.2(d) – Conspiracy

Between on or about January 21, 2006 through on or about February 15, 2006, Combs conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to bring about the export from the United States of epoxy paint and epoxy paint thinner, items subject to the Regulations, for use in a nuclear power plant that was under construction in Islamabad, Pakistan and under the ownership and control of the Pakistan Atomic Energy Commission (“PAEC”), without the required Department of Commerce license. PAEC is an entity that is listed on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. The nuclear plant was being constructed for PAEC by China Zhongyuan Engineering Corporation (“Zhongyuan”), with the assistance of subcontractor China Nuclear Engineering Huaxing Construction Co. Ltd. (“Huaxing”). The epoxy paint and thinner, which were designated as EAR99³ and valued at approximately \$24,588.60, were for use in a nuclear reactor and core and were certified as meeting “Level 1” industry standards for such use. A license was required for any export or reexport of these items to PAEC or any PAEC nuclear power plant facility pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations.

In furtherance of the conspiracy, Combs, who at the time was the Director of Business Development and Support at PPG Industries, Inc. (“PPG”), took actions designed to make the transaction appear to be a domestic sale in the United States between PPG and Innovative Decoration International Inc. (“IDI”), a PPG distributor with offices in both the United States and China, when, in fact, the items were to fulfill a contractual agreement between Huaxing and a PPG subsidiary, PPG Paints Trading (Shanghai) Co., Ltd. (“PPG Paints Trading”). The epoxy paint and thinner were destined for use at the PAEC nuclear plant. Combs acted in concert with IDI, Huaxing and others to structure the transaction so that the items would be picked up by IDI’s freight forwarder in the United States and transshipped through Hong Kong to Pakistan. With the assistance of IDI, he arranged for a freight forwarder to pick up the epoxy paint and thinner from PPG’s facilities in Watertown, Connecticut to ensure delivery by the February 26, 2006 deadline as agreed to by PPG Paints Trading and Huaxing. He directed his employee to take the final steps to secure shipment through the arrangement that IDI offered by calling IDI’s representative.

Combs knew that the shipment to PAEC required a license and that export of the items to the PAEC facility through Hong Kong was a violation of the Regulations because he had been informed by PPG’s legal and compliance departments that, “legal guidance indicates no way around obtaining the license prior to delivering the product to Pakistan. No 3rd party involvement or shipping to Tianjin and then to Pakistan is a possibility. These processes would be viewed as ‘intentional violation’ and would result in fines and jail time.” In addition, at the time of the conspiracy, Combs was aware that PPG had

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2011).

submitted a license application to the Department of Commerce relating to the Huaxing contract orders only on or about January 20, 2006, and that the application remained pending and that no license had been issued at the time of his actions in furtherance of the conspiracy.

In so doing, Combs committed one violation of Section 764.2(d) of the Regulations.

WHEREAS, Combs has reviewed the Proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Combs 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, Combs enters into this Agreement voluntarily and with full knowledge of his rights;

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

WHEREAS, Combs neither admits nor denies the allegations contained in the Proposed Charging Letter;

WHEREAS, Combs wishes to settle and dispose of all matters alleged in the Proposed Charging Letter by entering into this Agreement; and

WHEREAS, Combs agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Combs, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against Combs in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:
 - a. Combs shall be assessed a civil penalty in the amount of \$250,000. Combs shall pay \$15,000 to the U.S. Department of Commerce within 120 days of the date of the Order. Combs shall pay the U.S. Department of Commerce \$15,000 not later than March 30, 2012; and \$20,000 not later than July 31, 2012. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$200,000 shall be suspended for a period of two years from the date of issuance of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period, Combs has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$50,000 as set forth above.
 - b. Combs shall complete annual export compliance training on the Regulations every twelve months for the period from the date of the Order until five years from the date of the Order. Before he attends a training course or program, Combs shall notify the Office of Export Enforcement, Special Agent in Charge of the New York Office, of the course or program he has selected to attend. By the end of every such twelve-month period, Combs shall attend an export compliance training course or program, and no later than one month after attending each compliance course or program, Combs shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 1200 South Avenue, Room 104, Staten Island, NY 10314.

c. The full and timely payment of the civil penalty agreed to in Paragraph 2.a. and the timely completion and submission of verification of attendance at an annual export compliance training in Paragraph 2.b., are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to

Combs.

d. For a period of five (5) years from the date of entry of the Order, Howard L. Combs, with a last known address of 12414 Lighthouse Way Drive, Apt. H, St. Louis, Missouri 63141, and when acting for or on his behalf, his representatives, assigns, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate 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 other activity subject to the Regulations; or

iii. Benefitting 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.

e. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the five (5) year denial period set forth in paragraph 2.d shall be suspended in its entirety for a period of five (5) years from the date of the Order, and shall thereafter be waived, provided that during this probationary period under the Order, Combs has made full and timely payment of each civil penalty payment in accordance with the payment schedule agreed to in Paragraph 2.a above, has timely attended and submitted verification of attendance at the annual export compliance training agreed to in Paragraph 2.b above, and has committed no other violation of the Act or any regulation, order or license issued thereunder. If Combs does not make full and timely payment of each civil penalty payment in accordance with the payment schedule set forth in Paragraph 2.a above, does not timely complete and submit verification of attendance at the annual export compliance training agreed to in Paragraph 2.b above, or commits another violation during the probationary period, the suspension may be modified or revoked by BIS and a denial order including a five-year denial period activated against Combs.

3. Subject to the approval of this Agreement pursuant to Paragraph 9 hereof, Combs 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Combs also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, for the time period from the date of the Order, if issued, until the later of the date Combs pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement or the date Combs completes and submits verification of attendance at an export compliance training agreed to in Paragraph 2.b above, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter, or in connection with collection of the civil penalty or enforcement of the Agreement and Order, if issued.

4. Combs shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Comb's testimonial obligations in any proceeding, nor does it affect his right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a above, and timely completion and submission of verification of attendance at the annual export compliance training as set forth in Paragraph 2.b above, BIS will not initiate any further administrative proceeding against Combs in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

6. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.
7. 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.
8. 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 issued; 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.
9. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.
10. 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.

Settlement Agreement
Howard L. Combs
Page 9 of 9

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


Douglas R. Hassebrock
Director
Office of Export Enforcement

Date: 22 Aug, 2011


Howard L. Combs

Date: Aug 15, 2011

Reviewed and Approved by:


David Berardinelli, Esq.
Counsel for Howard L. Combs

Date: 8/15, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Howard L. Combs
12414 Lighthouse Way Drive
Apt. H
St. Louis, MO 63141

Dear Mr. Combs:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Howard L. Combs of St. Louis, Missouri (“Combs”), have committed one violation 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 alleges that Combs committed the following violation:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy

Between on or about January 21, 2006 through on or about February 15, 2006, Combs conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to bring about the export from the United States of epoxy paint and epoxy paint thinner, items subject to the Regulations, for use in a nuclear power plant that was under construction in Islamabad, Pakistan and under the ownership and control of the Pakistan Atomic Energy Commission (“PAEC”), without the required Department of Commerce license. PAEC is an entity that is listed on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. The nuclear plant was being constructed for PAEC by China Zhongyuan Engineering Corporation (“Zhongyuan”), with the assistance of subcontractor China Nuclear Engineering Huaxing Construction Co. Ltd. (“Huaxing”). The epoxy paint and thinner, which were designated as EAR99³ and valued at approximately \$24,588.60, were for use in a nuclear reactor and core and were certified as meeting “Level 1” industry standards for such use. A license was required for any export or reexport of these items to PAEC or any PAEC nuclear power plant facility pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The violations alleged occurred in 2006. The Regulations governing the violation at issue are found in the 2006 version of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2006). The 2011 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 12, 2010 (75 Fed. Reg. 50,681 (Aug. 16, 2010)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

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Proposed Charging Letter

Howard L. Combs

Page 2 of 4

In furtherance of the conspiracy, Combs, who at the time was the Director of Business Development and Support at PPG Industries, Inc. (“PPG”), took actions designed to make the transaction appear to be a domestic sale in the United States between PPG and Innovative Decoration International Inc. (“IDI”), a PPG distributor with offices in both the United States and China, when, in fact, the items were to fulfill a contractual agreement between Huaxing and a PPG subsidiary, PPG Paints Trading (Shanghai) Co., Ltd. (“PPG Paints Trading”). The epoxy paint and thinner were destined for use at the PAEC nuclear plant. Combs acted in concert with IDI, Huaxing and others to structure the transaction so that the items would be picked up by IDI’s freight forwarder in the United States and transshipped through Hong Kong to Pakistan. With the assistance of IDI, he arranged for a freight forwarder to pick up the epoxy paint and thinner from PPG’s facilities in Watertown, Connecticut to ensure delivery by the February 26, 2006 deadline as agreed to by PPG Paints Trading and Huaxing. He directed his employee to take the final steps to secure shipment through the arrangement that IDI offered by calling IDI’s representative.

Combs knew that the shipment to PAEC required a license and that export of the items to the PAEC facility through Hong Kong was a violation of the Regulations because he had been informed by PPG’s legal and compliance departments that, “legal guidance indicates no way around obtaining the license prior to delivering the product to Pakistan. No 3rd party involvement or shipping to Tianjin and then to Pakistan is a possibility. These processes would be viewed as ‘intentional violation’ and would result in fines and jail time.” In addition, at the time of the conspiracy, Combs was aware that PPG had submitted a license application to the Department of Commerce relating to the Huaxing contract orders only on or about January 20, 2006, and that the application remained pending and that no license had been issued at the time of his actions in furtherance of the conspiracy.

In so doing, Combs committed one violation of Section 764.2(d) of the Regulations.

* * * *

Accordingly, Combs is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions and any other liability sanction or penalty available under law, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴

⁴ See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Proposed Charging Letter

Howard L. Combs

Page 3 of 4

- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Combs 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 Combs defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Combs. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Combs is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Combs is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *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 Combs have a proposal to settle this case, Combs should transmit it to the attorney representing BIS named below.

Combs is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Combs may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Combs'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 Combs's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: R. Elizabeth Abraham, Esq.
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

R. Elizabeth ("Liz") Abraham is the attorney representing BIS in this case; any communications that Combs may wish to have concerning this matter should occur through her. Ms. Abraham may be contacted by telephone at (202) 482-5301.

Proposed Charging Letter

Howard L. Combs

Page 4 of 4

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement