

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

In the Matter of:)
)
Jeng Shih)
a/k/a Jay Shih)
35-40 167th Street)
Flushing, NY 11358)
)
Respondent)

ORDER RELATING TO JENG SHIH A/K/A JAY SHIH

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Jeng Shih a/k/a Jay Shih (“Shih”) of its intention to initiate an administrative proceeding against Shih 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 Shih that alleged that he committed four violations of the Regulations. Specifically, the charges are:

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

Beginning in or about 2007, and continuing through in or about April 2011, Shih conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items classified under Export Control Classification Number (“ECCN”) 5A992, and controlled for anti-terrorism reasons, which were subject to the

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 2007-2011. The Regulations governing the violation at issue are found in the 2007-2011 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2007-2011). 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, 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.*).

Regulations and the Iranian Transactions Regulations (“ITR”),³ from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T (“Sunrise”), at all times pertinent hereto, and, *inter alia*, participated in Sunrise’s sale of the computer equipment and arranged for its shipment from the United States to the UAE as unlicensed exports to Iran, via the UAE. The shipments were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Sunrise, on behalf of Iranian customers. In addition, Shih knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Sunrise from Tehran. Beginning in or about 2007, Shih and others acting on his and Sunrise’s behalf communicated directly with this co-conspirator in Iran by email in furtherance of the conspiracy.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew that exports to Iran, including specifically exports transhipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Sunrise in July 2006, during which the Special Agents informed Shih that unlicensed shipments of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Shih participated in and furthered the conspiracy described herein despite this knowledge. Moreover, in connection with three exports of the items to Iran, through the UAE, that occurred between on or about April 9, 2010 and on or about May 7, 2010, Shih emailed to one of his co-conspirators invoices listing the computer equipment involved and falsely identifying the ultimate destination of the items as the UAE, rather than Iran.

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

Charges 2-4 15 C.F.R. § 764.2(h) - Evasion

On three occasions, between on or about April 9, 2010, and on or about May 7, 2010, Shih took actions with the intent to evade the Regulations. Specifically, on these three occasions, Shih participated in and/or arranged the negotiation, sale, and shipment of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”),⁴ classified under ECCN 5A992, controlled for anti-terrorism reasons, and valued at approximately \$830,000, from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by OFAC, an export to a third country intended for transshipment to Iran is a transaction that

³ 31 C.F.R. Part 560 (2007-2011).

⁴ See note 3, *supra*.

requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T ("Sunrise") at all times pertinent hereto. With intent to evade the Regulations, Shih participated in and/or arranged the negotiation, sale, and shipment by Sunrise of U.S.-origin computer equipment from the United States to the UAE, where the items were transshipment by a co-conspirator to Iran. In addition, in connection with each of these exports to Iran, Shih, *inter alia*, emailed one of his co-conspirators invoices listing the items involved and falsely identifying the ultimate destination of the computer equipment as the UAE, rather than Iran.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew or had reason to know that the items were ultimately destined for Iran and were being exported from the United States through the UAE to Iran, and knew that a license was required for these export transactions, including specifically exports to Iran via the UAE, for the reasons described in Charge 1.

In so doing, Shih committed three violations of Section 764.2(h) of the Regulations.

WHEREAS, BIS and Shih 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, for a period of ten (10) years from the date of this Order, Jeng Shih a/k/a Jay Shih, 35-40 167th Street, Flushing, New York 11358, and when acting for or on his behalf, his successors, assigns, representatives, agents or employees (hereinafter collectively referred to as "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. 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.

SECOND, 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.

THIRD, 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 Shih 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.

FOURTH, that, as authorized by Section 766.18(c) of the Regulations, the 10-year denial period set forth above shall be suspended during a probationary period under this Order of ten (10) years from the date of this Order, and shall thereafter be waived, provided that Shih complies with the plea agreement he has entered with the U.S. Attorney's Office for the District of Columbia and complies with the sentence imposed upon or following the entry of his plea and conviction, and provided that during the 10-year probationary period under this Order, Shih has committed no other violation of the Act or any regulation, order or license issued thereunder. If Shih does not comply in full with his plea agreement and sentence, or commits a violation of the Regulations during the probationary period under this Order, the suspension may be modified or revoked by BIS and a denial order including a 10-year denial period activated against Shih.

FIFTH, 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.

A handwritten signature in blue ink, appearing to read 'D. Mills', is written over a horizontal line.

David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 11 day of October, 2011.

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

In the Matter of:)
)
Jeng Shih)
a/k/a Jay Shih)
35-40 167th Street)
Flushing, NY 11358)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Jeng Shih a/k/a Jay Shih (“Shih”) 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 Shih 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 Shih that alleged that Shih committed four violations 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 violations occurred in 2007-2011. The Regulations governing the violations at issue is found in the 2007-2011 versions 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.*).

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

Beginning in or about 2007, and continuing through in or about April 2011, Shih conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items classified under Export Control Classification Number (“ECCN”) 5A992, and controlled for anti-terrorism reasons, which were subject to the Regulations and the Iranian Transactions Regulations (“ITR”),³ from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T (“Sunrise”), at all times pertinent hereto, and, *inter alia*, participated in Sunrise’s sale of the computer equipment and arranged for its shipment from the United States to the UAE as unlicensed exports to Iran, via the UAE. The shipments were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Sunrise, on behalf of Iranian customers. In addition, Shih knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Sunrise from Tehran. Beginning in or about 2007, Shih and others acting on his and Sunrise’s behalf communicated directly with this co-conspirator in Iran by email in furtherance of the conspiracy.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Sunrise in July 2006, during which the Special Agents informed Shih that unlicensed shipments of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Shih participated in and furthered the conspiracy described herein despite this knowledge. Moreover, in connection with three exports of the items to Iran, through the UAE, that occurred between on or about April 9, 2010 and on or about May 7, 2010, Shih emailed to one of his co-conspirators invoices listing the computer equipment involved and falsely identifying the ultimate destination of the items as the UAE, rather than Iran.

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

³ 31 C.F.R. Part 560 (2007-2011).

Charges 2-4 15 C.F.R. § 764.2(h) - Evasion

On three occasions, between on or about April 9, 2010, and on or about May 7, 2010, Shih took actions with the intent to evade the Regulations. Specifically, on these three occasions, Shih participated in and/or arranged the negotiation, sale, and shipment of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”),⁴ classified under ECCN 5A992, controlled for anti-terrorism reasons, and valued at approximately \$830,000, from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by OFAC, an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T (“Sunrise”) at all times pertinent hereto. With intent to evade the Regulations, Shih participated in and/or arranged the negotiation, sale, and shipment by Sunrise of U.S.-origin computer equipment from the United States to the UAE, where the items were transshipment by a co-conspirator to Iran. In addition, in connection with each of these exports to Iran, Shih, *inter alia*, emailed one of his co-conspirators invoices listing the items involved and falsely identifying the ultimate destination of the computer equipment as the UAE, rather than Iran.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew or had reason to know that the items were ultimately destined for Iran and were being exported from the United States through the UAE to Iran, and knew that a license was required for these export transactions, including specifically exports to Iran via the UAE, for the reasons described in Charge 1.

In so doing, Shih committed three violations of Section 764.2(h) of the Regulations.

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

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

⁴ See note 3, *supra*.

WHEREAS, Shih enters into this Agreement voluntarily and with full knowledge of his rights, after consultation with his counsel;

WHEREAS, the Parties enter into this Agreement having taken into consideration a plea agreement entered between Shih and the U.S. Attorney's Office for the District of Columbia;

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

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

WHEREAS, Shih 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 Shih, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. Shih admits the allegations contained in the Proposed Charging Letter;

3. The following sanction shall be imposed against Shih in complete settlement of the alleged violations of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. For a period of ten (10) years from the date of the Order, Jeng Shih a/k/a Jay Shih, with a last known address of 35-40 167th Street, Flushing, NY 11358, and when acting for or on his behalf, his successors, assigns, representatives, 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.

b. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth in Paragraph 3.a above shall be suspended during a probationary period under the BIS Order of 10 years from the date of that Order, and shall thereafter be waived, provided Shih complies with the plea agreement he has entered with the U.S. Attorney’s Office for the District of Columbia and complies with the sentence imposed upon or following the entry of his plea and conviction, and provided that during the 10-year probationary period under the BIS Order, Shih has committed no other violation of the Act or any regulation, order or license issued thereunder. If Shih does not comply in full

with his plea agreement and sentence, or commits a violation of the Regulations during the probationary period under the BIS Order, the suspension may be modified or revoked by BIS and a denial order including a 10-year denial period activated against Shih.

4. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Shih 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.

5. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, 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.

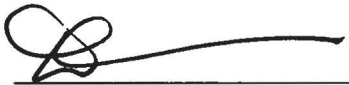
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or

otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. 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.

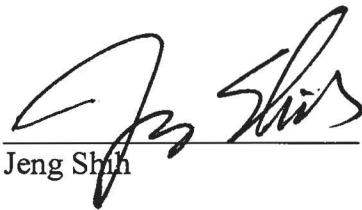
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Douglas R. Hassebrock
Director
Office of Export Enforcement

Date: 10/7/11, 2011


Jeng Shih

Date: 10/4, 2011

Reviewed and Approved by:



Robert P. LaRusso
LaRusso & Conway
Counsel for Jeng Shih

Date: 10/4, 2011

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jeng Shih
35-40 167th Street
Flushing, NY 11358

Dear Mr. Shih:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Jeng Shih, a/k/a Jay Shih, of Flushing, New York, have committed four 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 alleges that Shih committed the following violations:

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

Beginning in or about 2007, and continuing through in or about April 2011, Shih conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items classified under Export Control Classification Number (“ECCN”) 5A992, and controlled for anti-terrorism reasons, which were subject to the Regulations and the Iranian Transactions Regulations (“ITR”),³ from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T (“Sunrise”), at all times pertinent hereto, and, *inter alia*, participated

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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.*).

³ 31 C.F.R. Part 560 (2007-2011).

in Sunrise's sale of the computer equipment and arranged for its shipment from the United States to the UAE as unlicensed exports to Iran, via the UAE. The shipments were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Sunrise, on behalf of Iranian customers. In addition, Shih knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Sunrise from Tehran. Beginning in or about 2007, Shih and others acting on his and Sunrise's behalf communicated directly with this co-conspirator in Iran by email in furtherance of the conspiracy.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Sunrise in July 2006, during which the Special Agents informed Shih that unlicensed shipments of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Shih participated in and furthered the conspiracy described herein despite this knowledge. Moreover, in connection with three exports of the items to Iran, through the UAE, that occurred between on or about April 9, 2010 and on or about May 7, 2010, Shih emailed to one of his co-conspirators invoices listing the computer equipment involved and falsely identifying the ultimate destination of the items as the UAE, rather than Iran.

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

Charges 2-4 15 C.F.R. § 764.2(h) - Evasion

As further detailed in the Schedule of Violations attached hereto and incorporated herein by reference, on three occasions, between on or about April 9, 2010, and on or about May 7, 2010, Shih took actions with the intent to evade the Regulations. Specifically, on these three occasions, Shih participated in and/or arranged the negotiation, sale, and shipment of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations ("ITR"),⁴ classified under ECCN 5A992, controlled for anti-terrorism reasons, and valued at approximately \$830,000, from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered by OFAC, an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC.

Shih was the managing director of Sunrise Technologies and Trading Corporation, a/k/a Sunrise, a/k/a ST&T ("Sunrise") at all times pertinent hereto. With intent to evade the Regulations, Shih participated in and/or arranged the negotiation, sale, and shipment by Sunrise of U.S.-origin computer equipment from the United States to the UAE, where the

⁴ See note 3, *supra*.

items were transshipment by a co-conspirator to Iran. In addition, in connection with each of these exports to Iran, Shih, *inter alia*, emailed one of his co-conspirators invoices listing the items involved and falsely identifying the ultimate destination of the computer equipment as the UAE, rather than Iran.

No OFAC authorization was sought or obtained regarding any of the export transactions referenced herein. Shih knew or had reason to know that the items were ultimately destined for Iran and were being exported from the United States through the UAE to Iran, and knew that a license was required for these export transactions, including specifically exports to Iran via the UAE, for the reasons described in Charge 1.

In so doing, Shih committed three violations of Section 764.2(h) of the Regulations.

* * * * *

Accordingly, Shih 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;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Shih is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6. Shih 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.

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Jeng Shih (a/k/a Jay Shih)
Proposed Charging Letter
Page 4 of 5

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

Shih is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Shih 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, Shih'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 Shih's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

Charge Nos.	Export Date	Destination	Commodity Description	ECCN	Value	Violations
1, 2	4/9/2010	Iran, via United Arab Emirates	368 Units of computer equipment	5A992	\$330,404	15 C.F.R. § 764.2(d), (h)
1, 3	4/28/2010	Iran, via United Arab Emirates	158 Units of computer equipment	5A992	\$253,926	15 C.F.R. § 764.2(d), (h)
1, 4	5/7/2010	Iran, via United Arab Emirates	249 Units of computer equipment	5A992	\$246,506	15 C.F.R. § 764.2(d), (h)