

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

In the Matter of:

Aeroships International, Inc.
15 S. Arlington Heights Road
Suite 112
Arlington Heights, IL 60005

ORDER RELATING TO
AEROSHIPS INTERNATIONAL, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Aeroships International, Inc., of Arlington Heights, Illinois (“Aeroships”), of its intention to initiate an administrative proceeding against Aeroships 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 Aeroships that alleges that Aeroship committed one violation of the Regulations. Specifically, the charge is:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The charged violation occurred in 2008. The Regulations governing the violation at issue are found in the 2008 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 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 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations

On one occasion on or about July 28, 2008, Aeroships caused, aided, and abetted an act prohibited by the Regulations. Specifically, Aeroships, acting as a freight forwarder, arranged for the export of a 125 kilowatt generator, an item subject to the Regulations and designated EAR99,³ from the United States to Prime International, an entity in Pakistan listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Prime International has been on the Entity List since November 1998 through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including Prime International, that were "determined to be involved in nuclear or missile activities."⁴ The Shipper's Export Declaration filed by Aeroships in the Automated Export System for this export identified Prime International as the ultimate consignee for this transaction. Additionally, on or about April 8, 2008, Aeroships had received an outreach visit by Special Agents of BIS's Office of Export Enforcement, who discussed the need to screen all parties to an export transaction against BIS's Entity List and Denied Persons List to determine whether an export license was required. Aeroships' actions caused, aided and abetted the export of the generator to Prime International without the Department of Commerce license required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Aeroships committed one violation of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Aeroship 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, one of Aeroships' owners shall complete an export control compliance training course or program on the Regulations within six months from the date of the Order. Before this individual attends a training course or program, Aeroships shall notify the BIS Office of Export Enforcement, Special Agent in Charge of the Chicago Field

³EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2008).

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19. 1998).

Office, of the course or program this individual has selected to attend. No later than one month after attending the compliance course or program, Aeroships shall submit a certification of attendance from the training provider to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Chicago Field Office, Suite 804, One Oakbrook Terrace, Oakbrook Terrace, IL 60181.

SECOND, that for a period of four (4) years from the date of this Order, Aeroships International, Inc., with a last known address of 15 S. Arlington Heights Road, Suite 112, Arlington Heights, IL 6005, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives or agents (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. 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.

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 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.

FIFTH, that, as authorized by Section 766.18(c) of the Regulations, the four-year denial period set forth above shall be suspended during a probationary period of four years under the Order, and shall thereafter be waived, provided that Aeroships has completed and submitted certification of attendance at an export control compliance training course or program as set forth above and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If Aeroships has not completed and submitted certification of attendance at an export control compliance training course or program as set forth above, or commits another violation of the Act or the Regulations or any order, license or authorization issued thereunder, during the four-year probationary period under the Order, the suspension may be modified or revoked by BIS and a denial order including a four-year denial period activated against Aeroships.

SIXTH, 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 black ink, appearing to read "David W. Mills", written over a horizontal line.

David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 15 day of March, 2013.

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

In the Matter of:

Aeroships International, Inc.
15 S. Arlington Heights Road
Suite 112
Arlington Heights, IL 60005

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Aeroships International, Inc., of Arlington Heights, Illinois (“Aeroships”), 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 Aeroships of its intentions to initiate an administrative proceeding against Aeroships, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to Aeroships that alleges that Aeroships 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 (2012). The charged violation occurred in 2008. The Regulations governing the violation at issue are found in the 2008 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2012 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 15, 2012 (77 Fed. Reg. 49699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 and Supp. IV 2010).

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations

On one occasion on or about July 28, 2008, Aeroships caused, aided, and abetted an act prohibited by the Regulations. Specifically, Aeroships, acting as a freight forwarder, arranged for the export of a 125 kilowatt generator, an item subject to the Regulations and designated EAR99,³ from the United States to Prime International, an entity in Pakistan listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Prime International has been on the Entity List since November 1998 through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including Prime International, that were "determined to be involved in nuclear or missile activities."⁴ The Shipper's Export Declaration filed by Aeroships in the Automated Export System for this export identified Prime International as the ultimate consignee for this transaction. Additionally, on or about April 8, 2008, Aeroships had received an outreach visit by Special Agents of BIS's Office of Export Enforcement, who discussed the need to screen all parties to an export transaction against BIS's Entity List and Denied Persons List to determine whether an export license was required. Aeroships' actions caused, aided and abetted the export of the generator to Prime International without the Department of Commerce license required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Aeroships committed one violation of Section 764.2(b) of the Regulations.

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

WHEREAS, Aeroships wishes to settle this matter and 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, Aeroships enters into this Agreement voluntarily and with full knowledge of its rights;

³EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2008).

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19, 1998).

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

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

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

2. The following sanctions shall be imposed against Aeroships in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:

a. An owner of Aeroships shall complete an export control compliance training course or program on the Regulations within six months from the date of the Order. Before this individual attends a training course or program, Aeroships shall notify the BIS Office of Export Enforcement, Special Agent in Charge of the Chicago Field Office, of the course or program this individual has selected to attend. No later than one month after attending the compliance course or program, Aeroships shall submit a certification of attendance from the training provider to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Chicago Field Office, Suite 804, One Oakbrook Terrace, Oakbrook Terrace, IL 60181.

b. For a period of four (4) years from the date of the Order, Aeroships International, Inc., with a last known address of 15 S. Arlington Heights Road, Suite 112, Arlington Heights, IL 60005, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives or agents (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.

c. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the four-year denial period set forth in Paragraph 2.b shall be suspended during a probationary period of four years under the Order, and shall

thereafter be waived, provided that Aeroships has completed and submitted certification of attendance at an export control compliance training course or programs as set forth in Paragraph 2.a, and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If Aeroships has not completed and submitted certification of attendance at an export control compliance training course or program as set forth in Paragraph 2.a or commits another violation of the Act or the Regulations or any order, license or authorization issued thereunder, during the four-year probationary period under the Order, the suspension may be modified or revoked by BIS and a denial order including a four-year denial period activated against Aeroships.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Aeroships 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. Aeroships also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transaction identified in the Proposed Charging Letter from the date of the Order until Aeroships has completed and submitted certification of attendance at an export control compliance training course or program as set forth in Paragraph 2.a.

4. BIS agrees that upon completion and submission of certification of attendance at an export control compliance training course or program as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against Aeroships in connection with any violation of the Act or the Regulations arising out of the transaction specifically detailed in the Proposed Charging Letter.

5. 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.

6. 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.

7. 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.

8. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

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 of Export Enforcement

AEROSHIPS INTERNATIONAL, INC.



Richard DeCarlo
Co-Owner

Date: 3/13/13

Date: 3/12/13

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aeroships International, Inc.
2015 S. Arlington Heights Road
Suite 112
Arlington Heights, IL 60005

Attention: *Richard DeCarlo*
Co-Owner

Dear Mr. DeCarlo:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Aeroships International of Arlington Heights, Illinois ("Aeroships"), has committed one violation of the Export Administration Regulations (the "Regulations"),¹ which issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that Aeroships committed the following violation:

Charge 1 15 C.F.R. § 764.2(b): Causing, Aiding and Abetting an Act Prohibited by the Regulations

On one occasion on or about July 28, 2008, Aeroships caused, aided, and abetted an act prohibited by the Regulations. Specifically, Aeroships, acting as a freight forwarder, arranged for the export of a 125 kilowatt generator, an item subject to the Regulations and designated EAR99,³ from the United States to Prime International, an entity in Pakistan listed on BIS's Entity List set forth in Supplement No. 4 to Part 744 of the Regulations. Prime International has been on the Entity List since November 1998 through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including Prime International, that were "determined to be involved in nuclear or missile activities."⁴ The Shipper's Export Declaration

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The violation charged occurred in 2008. The Regulations governing the violation at issue are found in the 2008 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2008)). The 2012 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 15, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

³ EAR99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2008).

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19. 1998).

filed by Aeroships in the Automated Export System for this export identified Prime International as the ultimate consignee for this transaction. Additionally, on or about April 8, 2008, Aeroships had received an outreach visit by Special Agents of BIS's Office of Export Enforcement, who discussed the need to screen all parties to an export transaction against BIS's Entity List and Denied Persons List to determine whether an export license was required. Aeroships' actions caused, aided and abetted the export of the generator to Prime International without the Department of Commerce license required pursuant to Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Aeroships committed one violation of Section 764.2(b) of the Regulations.

* * *

Accordingly, Aeroships 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 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 Aeroships fails to answer the charge 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 Aeroships defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to Aeroships. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charge in this letter.

Aeroships 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. Aeroships 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 Aeroships have a proposal to settle this case, Aeroships or its representative should transmit it to the attorney representing BIS named below.

Aeroships is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Aeroships 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

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

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, Aeroships' answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

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

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

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement