

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

In the Matter of:

Dotphins LLC
2136 NE 123rd St.
North Miami, FL 33181

ORDER RELATING TO
DOTPHINS LLC

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Dotphins LLC, of North Miami, FL (“Dotphins”), of its intention to initiate an administrative proceeding against Dotphins pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ through the issuance of a Proposed Charging Letter to Dotphins that alleges that Dotphins committed two violations of the Regulations.² Specifically:

Charges 1–2 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

1. On two occasions on or about March 28, 2016, and on or about December 1, 2016, Dotphins engaged in conduct prohibited by the Regulations when it shipped

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. §§ 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). The charged violations occurred in 2016. The Regulations governing the violations at issue are found in the 2016 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2022 Regulations set forth the procedures that apply to this matter.

red dot scopes from the United States destined to Austria and Switzerland without the required BIS licenses. The red dot scopes, which are subject to the Regulations, were then classified under Export Control Classification Number 0A987.c, controlled on crime control grounds, and valued in total at approximately \$199.26. Pursuant to Section 762.7 of the Regulations, a license was (and remains) required for the export of these items.

2. Specifically, on or about March 28, 2016, Dotphins exported a red dot scope without the required BIS license to a customer in Austria. On or about December 1, 2016, Dotphins shipped a red dot scope without the required BIS license to a customer in Switzerland. The attempted export to Switzerland was stopped by the U.S. Government prior to the item leaving the United States.
3. By engaging in the above-described conduct, Dotphins committed two violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Dotphins 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;

WHEREAS, Dotphins admits committing the alleged conduct described in the Proposed Charging Letter; and

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

IT IS THEREFORE ORDERED:

FIRST, for a period of two (2) years from the date of the Order, Dotphins, with a last known address of 2136 NE 123rd St., North Miami, FL 33181, shall be made subject to a two-year denial of its export privileges under the Regulations (“denial”). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended for a two-year probationary period and shall thereafter be waived, provided that Dotphins has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations, and has completed export controls compliance training as described below. If Dotphins commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the

Regulations during the two-year suspension period under the Order, or fails to complete the export controls compliance training, the suspension of the denial may be modified or revoked by BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Dotphins. If the suspension of the denial is modified or revoked, the activation order may also revoke any BIS licenses in which Dotphins has an interest at the time of the activation order.³

SECOND, Dotphins shall complete export compliance training on the Regulations within twelve (12) months from the date of the Order. Before attendance at a compliance training course or program, Dotphins shall notify the Office of Export Enforcement, Special Agent in Charge of the Washington Field Office, of the course or program Dotphins has selected to attend. No later than one month after attending the compliance training course or program, Dotphins shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 381 Elden St. #1125, Herndon, VA 20170.

THIRD, compliance with the terms of the Settlement Agreement and the Order, including the timely completion and submission of verification of attendance at export compliance training as set forth above, 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 Dotphins.

FOURTH, should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Dotphins, for the duration of such denial order, Dotphins, and

³ Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA's enactment on August 13, 2018. *See* Note 1, *supra*.

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 engaging 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 from any other activity subject to the Regulations.

FIFTH, should the suspension of the denial be modified or revoked, and a denial order be activated against Dotphins, for the duration of the denial order, 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;

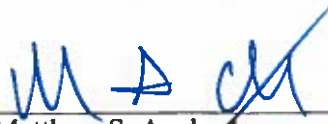
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with 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.

SIXTH, 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 ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

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

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



Matthew S. Axelrod
Assistant Secretary of Commerce
for Export Enforcement

Issued this 2nd day of February, 2023.

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

In the Matter of:

Dotphins LLC
2136 NE 123rd St.
North Miami, FL 33181

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Dotphins LLC, of North Miami, FL (“Dotphins”), 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

WHEREAS, BIS has notified Dotphins of its intentions to initiate an administrative proceeding against Dotphins pursuant to the Regulations;²

¹ The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. 115-232, 132 Stat. 2208 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). The charged violations occurred in 2016. The Regulations governing the violations at issue are found in the 2016 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2021 Regulations set forth the procedures that apply to this matter.

WHEREAS, BIS has issued a Proposed Charging Letter to Dotphins that alleges that Dotphins committed two violations of the Regulations, specifically:

Charges 1–2 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

1. On two occasions on or about March 28, 2016 and on or about December 1, 2016, Dotphins engaged in conduct prohibited by the Regulations when it shipped red dot scopes from the United States destined to Austria and Switzerland without the required BIS licenses. The red dot scopes, which are subject to the Regulations, were then classified under Export Control Classification Number 0A987.c, controlled on crime control grounds, and valued in total at approximately \$199.26. Pursuant to Section 762.7 of the Regulations, a license was (and remains) required for the export of these items.
2. Specifically, on or about March 28, 2016, Dotphins exported a red dot scope without the required BIS license to a customer in Austria. On or about December 1, 2016, Dotphins shipped a red dot scope without the required BIS license to a customer in Switzerland. The attempted export to Switzerland was stopped by the U.S. Government prior to the item leaving the United States.
3. By engaging in the above-described conduct, Dotphins committed two violations of Section 764.2(a) of the Regulations.

WHEREAS, Dotphins 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, Dotphins has reviewed, with the assistance of counsel, the terms of this Agreement, 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, and the Proposed Charging Letter, and understands the terms of all three documents;

WHEREAS, Dotphins enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, Dotphins admits committing the alleged conduct described in the Proposed Charging Letter; and

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

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

1. BIS has jurisdiction over Dotphins, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Dotphins:
 - a. For a period of two (2) years from the date of the Order, Dotphins shall be made subject to a two-year denial of its export privileges under the Regulations (“denial”). As authorized by Section 766.18(c) of the Regulations, such denial shall be suspended during this two-year probationary period and shall thereafter be waived, provided that Dotphins has not committed another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations, and has completed export controls compliance training as described below. If Dotphins commits another violation of ECRA, the Regulations, or any order, license or authorization issued under ECRA or the Regulations during the two-year suspension period under the Order, or fails to complete the export controls compliance training, the suspension of the denial may be modified or revoked by BIS pursuant to Section 766.17(c) of the Regulations and a denial order (including a two-year denial period) activated against Dotphins. If the suspension of the denial is modified or revoked, the activation order may also

revoke any BIS licenses in which Dotphins has an interest at the time of the activation order.³

b. Should the suspension of the denial be modified or revoked pursuant to Section 766.17(c) of the Regulations, and a denial order (including a two-year denial period) be activated against Dotphins, for the duration of such denial order, Dotphins, 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 engaging 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

³ Such a revocation would include licenses existing at the time of the activation order, whether the license had issued before or after ECRA’s enactment on August 13, 2018. *See* Note 1, *supra*.

is subject to the Regulations, or from any other activity subject to the Regulations.

c. Dotphins shall complete export compliance training on the Regulations within twelve (12) months from the date of the Order. Before attendance at a compliance training course or program, Dotphins shall notify the Office of Export Enforcement, Special Agent in Charge of the Washington Field Office, of the course or program it has selected. No later than one month after attending the compliance training course or program, Dotphins shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 381 Elden St. #1125, Herndon, VA 20170.

d. Compliance with the terms of this Agreement and the Order, including the timely completion and submission of verification of attendance at an export compliance training course or program in Paragraph 2.c, 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 Dotphins.

3. Subject to the approval of this Agreement pursuant to Paragraph 7 hereof, Dotphins hereby waives all rights to further procedural steps in this matter including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; and (b) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Dotphins 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 transactions identified in the

Proposed Charging Letter or enforcement of this Agreement and the Order, if issued, from the date of the Order until the later of the date between Dotphins' completion and submission of verification of attendance at the export compliance training course or program in Paragraph 2.c., or the two-year suspension period under the Order has successfully run.

4. BIS agrees that upon successful compliance in full with the terms of this Agreement and the Order, if issued, BIS will not initiate any further administrative proceeding against Dotphins in connection with any violation of the Regulations arising out of the transactions 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/she has authority to enter into this Agreement and to bind his/her respective party to the terms and conditions set forth herein.

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


John Sonderman
Director of Export Enforcement

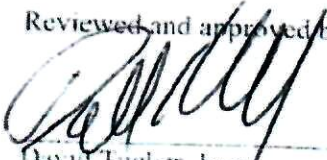
Date: 2/1/2023

DOLPHINS LLC


Daniel Danon

Date: 1/19/23

Reviewed and approved by:


David Tucker, Esq.
Counsel for Dolphins LLC

Date: 1/6/23

DRAFT

PROPOSED CHARGING LETTER

Dotphins LLC
2136 NE 123rd St.
North Miami, FL 33181

Attention: Daniel Danon, Manager

Dear Mr. Danon:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Dotphins LLC (“Dotphins”) of North Miami, Florida, has committed two violations of the Export Administration Regulations (the “Regulations”).¹ Specifically, BIS alleges that Dotphins committed the following violations:²

Charges 1–2 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

1. On two occasions on or about March 28, 2016 and on or about December 1, 2016, Dotphins engaged in conduct prohibited by the Regulations when it shipped red dot scopes from the United States destined to Austria and Switzerland without the required BIS licenses. The red dot scopes, which are subject to the Regulations, were then classified under Export Control Classification Number 0A987.c, controlled on crime control grounds, and valued in total at approximately \$199.26. Pursuant to Section 762.7 of the Regulations, a license was (and remains) required for the export of these items.

¹ The Regulations originally issued under the Export Administration Act of 1979, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“EAA”). 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 was extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 Fed. Reg. 39,871 (Aug.13, 2018)), continued the Regulations in effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, et seq. (2012) (“IEEPA”), including during the time period of the violations at issue, which occurred in 2016. On August 13, 2018, the President signed into law John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232, which includes the Export Control Reform Act of 2018 (50 U.S.C. §§ 4801-4852 (2019)) (“ECRA”). ECRA repealed the provisions of the EAA (except for three sections which are inapplicable here). Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2021). The violations alleged occurred in 2016. The Regulations governing the violations at issue are found in the 2016 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2015-2016). The 2022 Regulations govern the procedural aspects of this case.

2. Specifically, on or about March 28, 2016, Dotphins exported a red dot scope without the required BIS license to a customer in Austria. On or about December 1, 2016, Dotphins shipped a red dot scope without the required BIS license to a customer in Switzerland. The attempted export to Switzerland was stopped by the U.S. Government prior to the item leaving the United States.
3. By engaging in the above-described conduct, Dotphins committed two violations of Section 764.2(a) of the Regulations.

* * * *

Accordingly, Dotphins is hereby notified that an administrative proceeding is instituted against it pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions³ including, but not limited to, any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$330,947 per violation,⁴ or twice the value of the transaction that is the basis of the violation;⁵
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

³ The alleged violations occurred prior to August 13, 2018, the date of enactment of ECRA. Consequently, the potential sanctions are provided for in IEEPA. In situations involving alleged violations that occurred on or after August 13, 2018, the potential sanctions are specified in Section 1760(c) of ECRA.

⁴ *See* 15 C.F.R. §§ 6.3(c)(4), 6.4. This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. *See* 87 Fed. Reg. 157 (Jan. 4, 2022) (adjusting for inflation the maximum civil monetary penalty under IEEPA from \$311,562 to \$330,947 effective January 15, 2022).

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 100-96, 121 Stat. 1011 (2007).

Dotphins 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. Dotphins 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 Dotphins have a proposal to settle this case, Dotphins should transmit it to the attorney representing BIS named below.

Dotphins is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Dotphins 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, Dotphins' 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, MD 21202-4022

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

Chief Counsel for Industry and Security
Attention: Kimberly Hsu
Room H-3839
14th Street and Constitution Avenue, NW
Washington, DC 20230

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

Sincerely,

John Sonderman
Director
Office of Export Enforcement