

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

In the Matter of:)
)
Theresa Huei-Min Chang)
11816 Pine Brook Court)
Cupertino, California 95014)
)
Respondent.)
_____)

ORDER RELATING TO THERESA HUEI-MIN CHANG

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Theresa Huei-Min Chang (hereinafter referred to as “Chang”), of its intention to initiate an administrative proceeding against her pursuant to Section 766.3 of the Export Administration Regulations (“Regulations”)¹ and Section 13(c) of the Export Administration Act of 1979, as amended (“Act”),² through issuance of a proposed charging letter to Chang that alleged that she committed three violations of the Regulations. Specifically, these charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The charged violation occurred in 2003 through 2006. The Regulations governing the violation at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2006)). The 2008 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Taiwan without the Required License

Beginning in or about 2003 and continuing through on or about July 29, 2006, Chang conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items from the United States to Taiwan without the required U.S. Government authorization. Pursuant to Sections 742.2 or 742.3 of the Regulations, authorization was required from the Department of Commerce before certain chemicals, metals, and electronic components, items subject to the Regulations and classified under Export Control Classification Numbers (“ECCNs”) 1C227, 1C299, 1C230, 1C231, 1C234, 1C240, 1C350, and 3A201, could be exported from the United States to Taiwan. In furtherance of the conspiracy, the conspirators, including Chang, participated in a scheme in which a Taiwan company requested that an affiliated U.S. company, managed by Chang, procure specific items from U.S. suppliers and export them to Taiwan. The Taiwan company instructed the affiliated U.S. company not to tell U.S. suppliers that the affiliated U.S. company would export the items. Pursuant to this instruction, the affiliated U.S. company procured the items and exported them to Taiwan without the required license. In so doing, Chang committed one violation of Section 764.2(d) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation

On one occasion, on or about October 29, 2005, Chang ordered, bought, stored, sold, and forwarded nickel powder, an item that is subject to the Regulations and classified under ECCN 1C240, with knowledge that a violation of the Regulations was occurring. Specifically, Chang ordered, bought, stored, sold, and forwarded ten kilograms of nickel powder with a value of approximately \$551.00. Chang had knowledge that said item required a license for export to Taiwan and that it was being exported without the required license because Chang had been told by an employee of her company that an export of nickel powder to Taiwan required a license. In doing so, Chang committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(g) – Misrepresentation or Concealment of Facts

On or about May 26, 2006, Chang made a false or misleading statement to officials of the U.S. Government in the course of an investigation subject to the Regulations. Specifically, in the course of an interview conducted by Special Agents of BIS’s Office of Export Enforcement regarding unlicensed exports to Taiwan, Chang stated that, other than receiving payments for rent, she did not receive compensation from the Taiwanese company Gredmann/Well Being Enterprise Co., Ltd. (“Well Being”) for running Elecmat, a U.S. company, and that she ran Elecmat as a “favor.” This statement was false or misleading, as Chang knew that Well Being transferred approximately \$6,500 per month

into a United Commercial Bank account held in the name of Chang's brother, over which account Chang exercised complete control, which funds represented compensation for Chang's management of Elecmat. In so doing, Chang committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Chang 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, that for a period of two years from the date of entry of this Order, Theresa Huei-Min Chang, ("Chang"), her representatives, assigns, or agents ("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 and listed on the Commerce Control List, set forth in Supplement No. 1 to 15 C.F.R. part 774, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document that involves an item that is subject to the Regulations and listed on the Commerce Control List;
- 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 and listed on the Commerce Control List, or in any

other activity subject to the Regulations that involves an item listed on the Commerce Control List; 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 and listed on the Commerce Control List, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List.

SECOND, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations and listed on the Commerce Control List that has been, will be, or is intended to be exported or reexported from the United States:

- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations and listed on the Commerce Control List;
- B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a 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 a Denied Person of any item subject to the Regulations and listed on the Commerce Control List that has been exported from the United States;

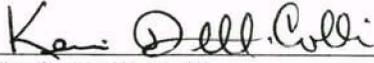
- D. Obtain from a Denied Person in the United States any item subject to the Regulations and listed on the Commerce Control List with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States and that is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the Regulations and listed on the Commerce Control List 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 Chang 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 the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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

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



Kevin Delli-Colli
Acting Assistant Secretary for Export Enforcement

Entered this 28th day of January, 2009.

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

In the Matter of:)
)
Theresa Huei-Min Chang)
11816 Pine Brook Court)
Cupertino, California 95014)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Theresa Huei-Min Chang (hereinafter referred to as "Chang") and the Bureau of Industry and Security, U. S. Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations ("Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended ("Act"),²

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

WHEREAS, BIS has issued a proposed charging letter to Chang that alleged that she committed three 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 (2008). The charged violation occurred in 2003 through 2006. The Regulations governing the violation at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2006)). The 2008 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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

Charge 1 **15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Taiwan without the Required License**

Beginning in or about 2003 and continuing through on or about July 29, 2006, Chang conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items from the United States to Taiwan without the required U.S. Government authorization. Pursuant to Sections 742.2 or 742.3 of the Regulations, authorization was required from the Department of Commerce before certain chemicals, metals, and electronic components, items subject to the Regulations and classified under Export Control Classification Numbers (“ECCNs”) 1C227, 1C299, 1C230, 1C231, 1C234, 1C240, 1C350, and 3A201, could be exported from the United States to Taiwan. In furtherance of the conspiracy, the conspirators, including Chang, participated in a scheme in which a Taiwan company requested that an affiliated U.S. company, managed by Chang, procure specific items from U.S. suppliers and export them to Taiwan. The Taiwan company instructed the affiliated U.S. company not to tell U.S. suppliers that the affiliated U.S. company would export the items. Pursuant to this instruction, the affiliated U.S. company procured the items and exported them to Taiwan without the required license. In so doing, Chang committed one violation of Section 764.2(d) of the Regulations.

Charge 2 **15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation**

On one occasion, on or about October 29, 2005, Chang ordered, bought, stored, sold, and forwarded nickel powder, an item that is subject to the Regulations and classified under ECCN 1C240, with knowledge that a violation of the Regulations was occurring. Specifically, Chang ordered, bought, stored, sold, and forwarded ten kilograms of nickel powder with a value of approximately \$551.00. Chang had knowledge that said item required a license for export to Taiwan and that it was being exported without the required license because Chang had been told by an employee of her company that an export of nickel powder to Taiwan required a license. In doing so, Chang committed one violation of Section 764.2(e) of the Regulations.

Charge 3 **15 C.F.R. § 764.2(g) – Misrepresentation or Concealment of Facts**

On or about May 26, 2006, Chang made a false or misleading statement to officials of the U.S. Government in the course of an investigation subject to the Regulations. Specifically, in the course of an interview conducted by Special Agents of BIS’s Office of Export Enforcement regarding unlicensed exports to Taiwan, Chang stated that, other than receiving payments for rent, she did not receive compensation from the Taiwanese company Gredmann/Well Being Enterprise Co., Ltd. (“Well Being”) for running Elecmat, a U.S. company, and that she ran Elecmat as a “favor.” This statement was false or misleading, as Chang knew that Well Being transferred approximately \$6,500 per month into a United Commercial Bank account held in the name of Chang’s brother, over which account Chang exercised complete control, which funds represented compensation for

Chang's management of Elecmat. In so doing, Chang committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, Chang has reviewed the proposed charging letter and is aware of the allegations made against her and the administrative sanctions which could be imposed against her if the allegations are found to be true;

WHEREAS, Chang 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, Chang enters into this Agreement voluntarily and with full knowledge of her rights;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Chang, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Chang in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

- a. For a period of two years from the date of entry of the Order, Chang, and when acting for or on behalf of Chang, her representatives, assigns, or agents ("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 and listed on the Commerce Control List, set forth in Supplement No. 1 to 15 C.F.R. part 774, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document that involves an item subject to the Regulations and listed on the Commerce Control List;
 - 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 and listed on the Commerce Control List, or in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations and listed on the Commerce Control List, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List; or

- iii. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations and listed on the Commerce Control List, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List.
3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Chang hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.
4. BIS agrees that, upon entry of the Order, it will not initiate any further administrative proceeding against Chang in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.
5. BIS will make the charging letter, amended charging letter, this Agreement, the Order, if entered, and the record of the case as described in Section 766.20 of the Regulations 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(b) 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 entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.
 8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.
 9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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


Thomas Madigan
Office of Export Enforcement

Date: 1/27/09

THERESA HUEI-MIN CHANG


Theresa Huei-Min Chang

Date: 1/22/09

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Theresa Huei-Min Chang
11816 Pine Brook Court
Cupertino, California 95014

Dear Ms. Chang:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Theresa Huei-Min Chang (“Chang”), manager of Elecmat Inc., have committed three violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Chang committed the following violations:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Taiwan without the Required License

Beginning in or about 2003 and continuing through on or about July 29, 2006, Chang conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items from the United States to Taiwan without the required U.S. Government authorization. Pursuant to Sections 742.2 or 742.3 of the Regulations, authorization was required from the Department of Commerce before certain chemicals, metals, and electronic components, items subject to the Regulations and classified under Export Control Classification Numbers (“ECCNs”) 1C227, 1C299, 1C230, 1C231, 1C234, 1C240, 1C350, and 3A201, could be exported from the United States to Taiwan. In furtherance of the conspiracy, the conspirators, including Chang, participated in a scheme in which a Taiwan company requested that an affiliated U.S. company, managed by Chang, procure specific items from U.S. suppliers and export them to Taiwan. The Taiwan company instructed the affiliated U.S. company not to tell U.S. suppliers that the affiliated U.S. company would export the items. Pursuant to this

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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 July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)).

instruction, the affiliated U.S. company procured the items and exported them to Taiwan without the required license. In so doing, Chang committed one violation of Section 764.2(d) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation

On one occasion, on or about October 29, 2005, Chang ordered, bought, stored, sold, and forwarded nickel powder, an item that is subject to the Regulations and classified under ECCN 1C240, with knowledge that a violation of the Regulations was occurring. Specifically, Chang ordered, bought, stored, sold, and forwarded ten kilograms of nickel powder with a value of approximately \$551.00. Chang had knowledge that said item required a license for export to Taiwan and that it was being exported without the required license because Chang had been told by an employee of her company that an export of nickel powder to Taiwan required a license. In doing so, Chang committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(g) – Misrepresentation or Concealment of Facts

On or about May 26, 2006, Chang made a false or misleading statement to officials of the U.S. Government in the course of an investigation subject to the Regulations. Specifically, in the course of an interview conducted by Special Agents of BIS's Office of Export Enforcement regarding unlicensed exports to Taiwan, Chang stated that, other than receiving payments for rent, she did not receive compensation from the Taiwanese company Gredmann/Well Being Enterprise Co., Ltd. ("Well Being") for running Elecmat, a U.S. company, and that she ran Elecmat as a "favor." This statement was false or misleading, as Chang knew that Well Being transferred approximately \$6,500 per month into a United Commercial Bank account held in the name of Chang's brother, over which account Chang exercised complete control, which funds represented compensation for Chang's management of Elecmat. In so doing, Chang committed one violation of Section 764.2(g) of the Regulations.

* * * * *

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

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

³ See International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

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

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

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

Theresa Huei-Min Chang
Charging Letter
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Thea D. R. Kendler is the attorney representing BIS in this case; any communications that Chang may wish to have concerning this matter should occur through her. Ms. Kendler may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement