

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

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In the Matter of:	)	
	)	
Sri Welaratna	)	06-BIS-22
2025 Gateway Place, Suite 260	)	
San Jose, CA 95110	)	
	)	
Respondent.	)	

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ORDER RELATING TO SRI WELARATNA

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has initiated an administrative proceeding against Sri Welaratna in his individual capacity (hereinafter referred to as “Welaratna”), case number 06-BIS-22, through the issuance of a charging letter, pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (“Regulations”)<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).<sup>2</sup> BIS and Welaratna have agreed to settle case 06-BIS-22 based on the following five alleged violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations charged occurred in 2001-2002. The Regulations governing the violations at issue are found in the 2001-2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2007 Regulations govern the procedural aspects of the case.

<sup>2</sup> 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 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

On or about December 20, 2001, Welaratna engaged in conduct prohibited by the Regulations when he exported a DP 550 Vibration Controller, an item subject to the Regulations, to the Chinese Academy of Launch Vehicle Technology (“CALT”) in the People’s Republic of China (“China”), an organization on BIS’s Entity List,<sup>3</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Welaratna committed one violation of Section 764.2(a) of the Regulations.

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

On or about December 20, 2001, in connection with the transaction described in Charge 1 above, Welaratna sold and/or forwarded a DP 550 Vibration Controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Welaratna knew or should have known that an export license was required to ship a DP 550 Vibration Controller, an item subject to the Regulations, from the United States to CALT, an entity on BIS’s Entity List. Welaratna had reason to know that a license was required for this export since, *inter alia*, Office of Export Enforcement (“OEE”) special agents visited Data Physics in May 1999 where they informed Data Physics’ Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an email to Welaratna explaining the rules and included a link to BIS’s Entity List. In so doing, Welaratna committed one violation of Section 764.2(e) of the Regulations.

**Charge 3 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

On or about March 15, 2002, Welaratna engaged in conduct prohibited by the Regulations when he exported a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, to the Beijing Automation Control Equipment Institute (“BACEI”) in China), an organization on BIS’s Entity List,<sup>4</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Welaratna committed one violation of Section 764.2(a) of the Regulations.

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<sup>3</sup> 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)), as extended most recently by the Notice of August 3, 2006, (71 Fed. Reg. 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

<sup>4</sup> *Id.*

**Charge 4 15 C.F.R. § 764.2(e) - Acting With Knowledge of a Violation**

On or about March 15, 2002, in connection with the transaction described in Charge 3 above, Welaratna sold and/or forwarded a Signalstar Vector (DP 560) vibration controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Welaratna knew or should have known that an export license was required to ship a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, from the United States to BACEI, an entity on BIS's Entity List. Welaratna had reason to know that a license was required for this export since, *inter alia*, OEE special agents visited Data Physics in May 1999 where they informed Data Physics' Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an email to Welaratna explaining the rules and included a link to BIS's Entity List. In so doing, Welaratna committed one violation of Section 764.2(e) of the Regulations.

**Charge 5 15 C.F.R. § 764.2(g) - False Statement on Shipper's Export Declaration**

On or about March 15, 2002, in connection with the transaction described in Charges 3 and 4 above, Welaratna made a false statement to the U.S. Government in connection with the submission of an export control document. Specifically, Welaratna filed a Shipper's Export Declaration ("SED") with the U.S. Government stating that the items that were the subject of the SED qualified for export as "NLR," i.e., that no license was required. This representation was false, as a license was required for the Signalstar Vector (DP 560) vibration controller to be exported to the Beijing Automation Control Equipment Institute. In so doing, Welaratna committed one violation of Section 764.2(g) of the Regulations.

BIS and Welaratna having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that Welaratna shall pay a civil penalty of \$55,000 to the U.S. Department of Commerce to be paid within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions. Additionally:

- A. Pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (1983 and Supp. 2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Welaratna will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.
- B. The timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Welaratna. Accordingly, if Welaratna should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Welaratna's export privileges for a period of one year from the date of entry of this Order.

SECOND, that for a period of five years from the date of entry of the Temporary Denial Order against Welaratna on May 23, 2006, Welaratna, 2025 Gateway Place, Suite 260, San Jose, CA 95110, his representatives, assigns or agents ("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”) that is subject to the Regulations and that is exported or to be exported from the United States to the People’s Republic of China (“China”), or in any other activity subject to the Regulations that involves China, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document that involves export to China;
- 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 that is subject to the Regulations and that is exported or to be exported from the United States to China, or in any other activity subject to the Regulations that involves China; or
- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to China that is subject to the Regulations, or in any other activity subject to the Regulations that involves China.

THIRD, 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 that has been, will be, or is intended to be exported or reexported to China:

- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations to China;

- 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 that has been or will be exported from the United States to China, 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 that has been exported from the United States to China;
- D. Obtain from a 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 to China; 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 to China 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 that has been or will be exported from the United States to China. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.
- F. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject

to the Regulations are the foreign-produced direct product of U.S.-origin technology.

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 Welaratna 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 denial period set forth above shall be suspended in its entirety, provided that Welaratna commits no violation of the Act or any regulation, order or license issued thereunder, and, provided that Welaratna has made timely payment of the \$55,000 civil penalty assessed pursuant to this Order.

SIXTH, that the charging letter, amended charging letter, the Settlement Agreement, and this Order, and the record of the cases as defined by Section 766.20 of the Regulations shall be made available to the public. BIS shall notify the administrative law judge that case 06-BIS-22 is withdrawn from adjudication.

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

  
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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 22<sup>nd</sup> day of May, 2007.

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

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Sri Welaratna	)	06-BIS-22
2025 Gateway Place, Suite 260	)	
San Jose, CA 95110	)	
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Respondent.	)	

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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Sri Welaratna, in his individual capacity, (hereinafter referred to as “Welaratna”) and the Bureau of Industry and Security, U. S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

WHEREAS, BIS has initiated an administrative proceeding against Welaratna, case number 06-BIS-22, pursuant to the Act and the Regulations,

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<sup>1</sup> The Regulations are currently codified at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in the 2001 and 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). Actions taken during this administrative enforcement proceeding are governed by the Regulations in effect at the time such action takes place.

<sup>2</sup> 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)), as extended most recently by the Notice of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”).

WHEREAS, Welaratna has reviewed all of the alleged violations of case 06-BIS-22 and the administrative sanctions which could be imposed against him if the allegations are found to be true,

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

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

WHEREAS, Welaratna neither admits nor denies any of the alleged violations contained in case 06-BIS-22;

WHEREAS, Welaratna wishes to settle and dispose of all matters alleged in case 06-BIS-22 by entering into this Agreement; and

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Welaratna, under the Regulations, in connection with the matters alleged in case 06-BIS-22.
2. BIS and Welaratna shall settle the administrative case against Welaratna with a civil penalty based on the following 5 charges, which Welaratna neither admits nor denies:

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

On or about December 20, 2001, Welaratna engaged in conduct prohibited by the Regulations when he exported a DP 550 Vibration Controller, an item subject to the Regulations, to the Chinese Academy of Launch Vehicle Technology (“CALT”) in the People’s Republic of China (“China”), an organization on BIS’s Entity List,<sup>3</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Welaratna committed one violation of Section 764.2(a) of the Regulations.

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

On or about December 20, 2001, in connection with the transaction described in Charge 1 above, Welaratna sold and/or forwarded a DP 550 Vibration Controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Welaratna knew or should have known that an export license was required to ship a DP 550 Vibration Controller, an item subject to the Regulations, from the United States to CALT, an entity on BIS’s Entity List. Welaratna had reason to know that a license was required for this export since, *inter alia*, Office of Export Enforcement (“OEE”) special agents visited Data Physics in May 1999 where they informed Data Physics’ Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an email to Welaratna explaining the rules and included a link to BIS’s Entity List. In so doing, Welaratna committed one violation of Section 764.2(e) of the Regulations.

**Charge 3 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

On or about March 15, 2002, Welaratna engaged in conduct prohibited by the Regulations when he exported a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, to the Beijing Automation Control Equipment Institute (“BACEI”) in China), an organization on BIS’s Entity List,<sup>4</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Welaratna committed one violation of Section 764.2(a) of the Regulations.

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<sup>3</sup> 15 C.F.R. Supplement No. 4 to Part 744.

<sup>4</sup> Id.

**Charge 4 15 C.F.R. § 764.2(e) - Acting With Knowledge of a Violation**

On or about March 15, 2002, in connection with the transaction described in Charge 3 above, Welaratna sold and/or forwarded a Signalstar Vector (DP 560) vibration controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Welaratna knew or should have known that an export license was required to ship a Signalstar Vector (DP 560) vibration controller, an item subject to the Regulations, from the United States to BACEI, an entity on BIS's Entity List. Welaratna had reason to know that a license was required for this export since, *inter alia*, OEE special agents visited Data Physics in May 1999 where they informed Data Physics' Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an email to Welaratna explaining the rules and included a link to BIS's Entity List. In so doing, Welaratna committed one violation of Section 764.2(e) of the Regulations.

**Charge 5 15 C.F.R. § 764.2(g) - False Statement on Shipper's Export Declaration**

On or about March 15, 2002, in connection with the transaction described in Charges 3 and 4 above, Welaratna made a false statement to the U.S. Government in connection with the submission of an export control document. Specifically, Welaratna filed a Shipper's Export Declaration ("SED") with the U.S. Government stating that the items that were the subject of the SED qualified for export as "NLR," i.e., that no license was required. This representation was false, as a license was required for the Signalstar Vector (DP 560) vibration controller to be exported to the Beijing Automation Control Equipment Institute. In so doing, Welaratna committed one violation of Section 764.2(g) of the Regulations.

**3. BIS and Welaratna agree that the following sanctions shall be imposed against**

**Welaratna in complete settlement of all of the alleged violations of case 06-BIS-22:**

- a. Welaratna shall be assessed a civil penalty in the amount of \$55,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be

granted, to Welaratna. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Welaratna's export privileges under the EAR for a period of one year from the date of imposition of the penalty.

- c. For a period five years from the date of entry of the Temporary Denial Order against Welaratna on May 23, 2006, Welaratna and when acting for or on behalf of Welaratna, his 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") that is subject to the Regulations and that is exported or to be exported from the United States to the People's Republic of China ("China"), or in any other activity subject to the Regulations that involves China, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document that involves export to China;
- 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 that is subject to the Regulations and that is exported or to be exported from the United States to China, or in any other activity subject to the Regulations that involves China; or
- iii. Benefiting in any way from any transaction involving any item exported or to be exported from the United States to China that is

subject to the Regulations, or in any other activity subject to the Regulations that involves China.

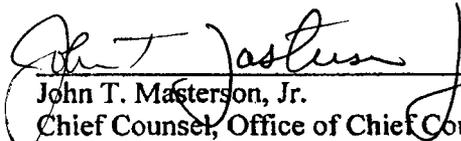
- d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the five year denial period set forth in paragraph 3.c shall be suspended in its entirety, provided that Welaratna commits no violation of the Act or any regulation, order or license issued thereunder, and, provided further that Welaratna has made timely payment of the \$55,000 civil penalty assessed pursuant to this Agreement and Order
4. Subject to the approval of this Agreement pursuant to paragraph 9 hereof, Welaratna 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 alleged violations in case 06-BIS-22; (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.
5. BIS agrees that, upon entry of the Order, it will not initiate any further administrative proceeding against Welaratna in connection with any violation of the Act or the Regulations arising out of the transactions identified in case 06-BIS-22.

6. BIS will make the charging letter, amended charging letter, this Agreement, the Order, if entered, and the record of the case as defined by Section 766.20 of the Regulations available to the public.
7. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(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.
8. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.
9. This Agreement shall become binding on BIS 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. Upon both Parties signing this settlement agreement and the Assistant Secretary of Commerce for Export Enforcement issuing the appropriate Order, BIS shall withdraw case 06-BIS-22 including all the alleged violations from adjudication.

**10. Each signatory affirms that he has authority to enter into this Settlement**

Agreement and to bind his respective party to the terms and conditions set forth herein.

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

  
\_\_\_\_\_  
John T. Masterson, Jr.  
Chief Counsel, Office of Chief Counsel  
for Industry and Security

Date: May 18, 2007

  
\_\_\_\_\_  
Sri Welaratna

Date: 2007/05/17

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Sri Welaratna, President  
Data Physics Corporation  
2025 Gateway Place, Suite 260  
San Jose, CA 95110

Attention: *Mr. Sri Welaratna*  
*President*

Dear Mr. Welaratna:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Sri Welaratna ("Welaratna"), in your personal capacity as President of Data Physics Corporation, committed five violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that you committed the following violations:

**Charge 1 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

On or about December 20, 2001, Welaratna engaged in conduct prohibited by the Regulations when he exported a DP 550 Vibration Controller, an item subject to the Regulations, to the Chinese Academy of Launch Vehicle Technology ("CALT") in the People's Republic of China ("China"), an organization on BIS's Entity List,<sup>2</sup> without the license required by the Department of Commerce. A license was required for this export under Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. In so doing, Welaratna committed one violation of Section 764.2(a) of the Regulations.

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

On or about December 20, 2001, in connection with the transaction described in Charge 1 above, Welaratna sold and/or forwarded a DP 550 Vibration Controller with knowledge that a violation of the Regulations would occur in connection with the item. At all times relevant hereto, Welaratna knew or should have known that an export license was required to ship a DP 550

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The violations charged occurred from 2001 through 2002. The Regulations governing the violations at issue are found in the 2001 - 2002 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2002)). The 2007 Regulations govern the procedural aspects of this case.

<sup>2</sup> 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)), as extended most recently by the Notice of August 3, 2006, (71 Fed. Reg. 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA").

Vibration Controller, an item subject to the Regulations, from the United States to CALT, an entity on BIS's Entity List. Welaratna had reason to know that a license was required for this export since, *inter alia*, Office of Export Enforcement ("OEE") special agents visited Data Physics in May 1999 where they informed Data Physics' Chief Technology Officer and the Director of Manufacturing and Quality Systems, on the rules and requirements regarding exports to organizations on the BIS Entity List. The Chief Technology Officer then sent an email to Welaratna explaining the rules and included a link to BIS's Entity List. In so doing, Welaratna committed one violation of Section 764.2(e) of the Regulations.

**Charge 3 15 C.F.R. §764.2(a) - Unlicensed Export to Listed Entity in China**

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**Charge 5 15 C.F.R. § 764.2(g) - False Statement on Shipper's Export Declaration**

On or about March 15, 2002, in connection with the transaction described in Charges 3 and 4 above, Welaratna made a false statement to the U.S. Government in connection with the submission of an export control document. Specifically, Welaratna filed a Shipper's Export Declaration ("SED") with the U.S. Government stating that the items that were the subject of the SED qualified for export as "NLR," i.e., that no license was required. This representation was false, as a license was required for the Signalstar Vector (DP 560) vibration controller to be

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<sup>3</sup> Id.

exported to the Beijing Automation Control Equipment Institute. In so doing, Welaratna committed one violation of Section 764.2(g) of the Regulations.

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Accordingly, you are hereby notified that an administrative proceeding is instituted against you 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 \$11,000 per violation<sup>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If you fail 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. (Regulations, Sections 766.6 and 766.7). If you default, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to you. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

You are further notified that you are entitled to an agency hearing on the record if you file a written demand for one with its answer. (Regulations, Section 766.6). You are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent you. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, your 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

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<sup>4</sup> See 15 C.F.R. § 6.4(a)(4).

Sri Welaratna  
Final Charging Letter  
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In addition, a copy of your 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 you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

John McKenna  
Acting Director  
Office of Export Enforcement

Enclosure