

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

In the Matter of:)
)
America II Electronics, Inc.)
2600 118th Ave. N.)
St. Petersburg, FL 33716)
)
)
Respondent)

ORDER RELATING TO AMERICA II ELECTRONICS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified America II Electronics, Inc. (America II) of its intention to initiate an administrative proceeding against America II pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to America II that alleged that America II committed four violations of the Regulations. Specifically, the charges are:

¹ The charged violations occurred in 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2008 Regulations set forth the procedures that apply to this matter.

² 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. 43603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Charges 1-4 15 C.F.R. § 764.2(a) – Exports of Electronic Components from the United States to Russia without the Required Licenses

On four occasions from on or about August 18, 2003 through on or about October 1, 2004, America II engaged in conduct prohibited by the Regulations by exporting analog-to-digital converters, items subject to the EAR and classified under ECCN³ 3A001, from the United States to Russia without the Department of Commerce licenses required by Section 742.4 of the Regulations. In doing so, America II committed four violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and America II 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 a civil penalty of \$170,000 is assessed against America II, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (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, America II 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.

THIRD, that 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 America II. Accordingly, if America II should fail to pay the civil penalty in a timely manner, the undersigned may enter an

³ The term "ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

Order denying all of America II's export privileges for a period of one year from the date of entry of this Order.

FOURTH, 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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 22nd day of September, 2008.

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

In the Matter of:)
)
America II Electronics, Inc.)
2600 118th Ave. N.)
St. Petersburg, FL 33716)
)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between America II Electronics, Inc. (“America II”) 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 (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),²

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

¹ The charged violations occurred in 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2008 Regulations set forth the procedures that apply to this matter.

² 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. 43,606 (Jul. 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

WHEREAS, BIS has issued a proposed charging letter to America II that alleged that America II committed four violations of the Regulations, specifically:

Charges 1-4 15 C.F.R. § 764.2(a) – Exports of Electronic Components from the United States to Russia without the Required Licenses

On four occasions from on or about August 18, 2003 through on or about October 1, 2004, America II engaged in conduct prohibited by the Regulations by exporting analog-to-digital converters, items subject to the EAR and classified under ECCN³ 3A001, from the United States to Russia without the Department of Commerce licenses required by Section 742.4 of the Regulations. In doing so, America II committed four violations of Section 764.2(a) of the Regulations.

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

WHEREAS, America II 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, America II enters into this Agreement voluntarily and with full knowledge of its rights;

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

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

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

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

³ The term “ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over America II, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against America II in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. America II shall be assessed a civil penalty in the amount of \$170,000, 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, permission, or privilege granted, or to be granted, to America II. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of America II's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, America II 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 any 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. Upon entry of the Order and timely payment of the \$170,000 civil penalty, BIS will not initiate any further administrative proceeding against America II in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if 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.

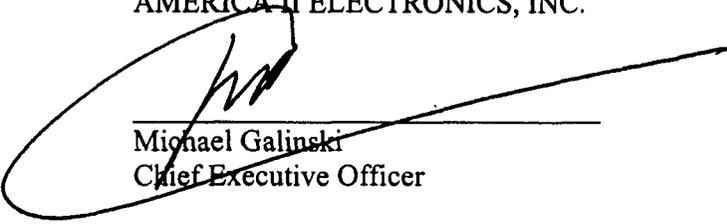
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Thomas Madigan
Director
Office of Export Enforcement

AMERICA II ELECTRONICS, INC.



Michael Galinski
Chief Executive Officer

Date: 9/11/8

Date: 9/3/08

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

America II Electronics, Inc.
2600 118th Ave. N.
St. Petersburg, FL 33716

Attn: *Michael Galinski, Chief Executive Officer*

Dear Mr. Galinski:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that America II Electronics, Inc. (“America II”), of St. Petersburg, Florida, has committed four violations of the Export Administration Regulations (the Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that America II committed the following violations:

Charges 1-4 15 C.F.R. § 764.2(a) – Exports of Electronic Components from the United States to Russia without the Required Licenses

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on four occasions from on or about August 18, 2003 through on or about October 1, 2004, America II engaged in conduct prohibited by the Regulations by exporting analog-to-digital converters, items subject to the EAR and classified under ECCN³ 3A001, from the United States to Russia without the Department of Commerce licenses required by Section 742.4 of the Regulations. In doing so, America II committed four violations of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, America II 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, including any or all of the following:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The charged violations occurred in 2003 and 2004. The Regulations governing the violations at issue are found in the 2003 through 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2008 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 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended most recently by the Notice 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. §§ 1701-1707 (2000)).

³ The term “ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

- 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;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

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

America II is further notified that under the Small Business Regulatory Enforcement Flexibility Act, America II 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, America II'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

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

America II Electronics
Proposed Charging Letter
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In addition, a copy of America II's answer must be served on BIS at the following address:

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement

AMERICA II -- SCHEDULE OF VIOLATIONS

Count	Export Date	Destination	Commodity Description	Units/Value	Total Value	ECCN
1	8/18/2003	Russia	AD10200BZ (Analog Devices Dual Channel, 12 Bit 105 MSPS IF Sampling A/D Converter with Analog Input Signal Conditioning)	8 units/\$579.00 ea.	\$4,632	3A001
2	9/12/2003	Russia	CLC5957MTDX (National Semiconductor 12 Bit, 70 MSPS Broadband Monolithic A/D Converter)	220 units/\$22 ea.	\$4,840	3A001
3	11/21/2003	Russia	CLC5957MTDX (National Semiconductor 12 Bit, 70 MSPS Broadband Monolithic A/D Converter)	Natl Semi: 100 units/\$22 ea.	\$2,200	3A001
			AD9432BST105 (Analog Devices 12 Bit, 80 MSPS A/D Converter)	5 units/\$102 ea	\$510	
4	10/1/2004	Russia	AD9236BRU80 (Analog Devices 12 Bit, 80 MSPS 3V A/D Converter)	26 units/\$48.00 ea	\$1,248	3A001