

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

In the Matter of:

B&H Foto & Electronics Corp.
420 9th Avenue
New York, NY 10001

Respondent

ORDER RELATING TO
B&H FOTO & ELECTRONICS CORP.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified B&H Foto & Electronics Corp. of New York, New York (“B&H Foto”), of its intention to initiate an administrative proceeding against B&H Foto pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to B&H Foto that alleges that B&H Foto committed 50 violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2014). The charged violations occurred in 2009-2012. The Regulations governing the violations at issue are found in the 2009-2012 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2014 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charges 1-50: 15 C.F.R. § 764.2(a) – Unlicensed Exports of Optical Sighting Devices

On 50 occasions between on or about March 27, 2009, and on or about November 19, 2012, B&H Foto engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to various countries, including Russia, Kazakhstan, Hong Kong, Saudi Arabia and South Africa, without the required Department of Commerce licenses. Specifically, B&H Foto exported optical sighting devices, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 0A987, and valued at approximately \$23,000. Items classified under ECCN 0A987 are controlled for Crime Control reasons and pursuant to Section 742.7 of the Regulations require a Department of Commerce license before they can be exported to each of the destinations at issue. In exporting these items from the United States without the required licenses, B&H Foto committed 50 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and B&H Foto 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, B&H Foto shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

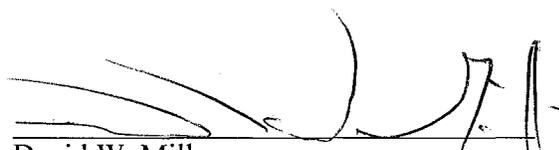
SECOND, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, B&H Foto will be assessed, in addition 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, the full and timely payment of the civil penalty 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 B&H Foto. Accordingly, if B&H Foto should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order denying all of B&H Foto's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, B&H Foto shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or this Order. The foregoing does not affect B&H Foto's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, 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.


David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 8th day of January 2015

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

In the Matter of:

B&H Foto & Electronics Corp.
420 9th Avenue
New York, NY 10001

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between B&H Foto & Electronics Corp. of New York, New York ("B&H Foto"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively, the "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (the "Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

WHEREAS, BIS has notified B&H Foto of its intentions to initiate an administrative proceeding against B&H Foto, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Proposed Charging Letter to B&H Foto that alleges that B&H Foto committed 50 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 (2014). The charged violations occurred in 2009-2012. The Regulations governing the violations at issue are found in the 2009-2012 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2014 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charges 1-50: 15 C.F.R. § 764.2(a) – Unlicensed Exports of Optical Sighting Devices

On 50 occasions between on or about March 27, 2009, and on or about November 19, 2012, B&H Foto engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to various countries, including Russia, Kazakhstan, Hong Kong, Saudi Arabia and South Africa, without the required Department of Commerce licenses. Specifically, B&H Foto exported optical sighting devices, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 0A987, and valued at approximately \$23,000. Items classified under ECCN 0A987 are controlled for Crime Control reasons and pursuant to Section 742.7 of the Regulations require a Department of Commerce license before they can be exported to each of the destinations at issue. In exporting these items from the United States without the required licenses, B&H Foto committed 50 violations of Section 764.2(a) of the Regulations.

WHEREAS, B&H Foto 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, B&H Foto 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, B&H Foto enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, B&H Foto neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, B&H Foto agrees to be bound by the Order, if issued;

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

1. BIS has jurisdiction over B&H Foto, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against B&H Foto in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. B&H Foto shall be assessed a civil penalty in the amount of \$275,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

b. The full and 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 B&H Foto. Failure to make full and timely payment of the civil penalty may result in the denial of all of B&H Foto's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, B&H Foto hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. B&H Foto 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 in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until the date B&H Foto pays in full the civil penalty agreed to in Paragraph 2.a. above.

4. B&H Foto shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect B&H Foto's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. Upon issuance of the Order and full and timely payment of the civil penalty agreed to in Paragraph 2.a, above, BIS will not initiate any further administrative proceeding against B&H Foto in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

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.

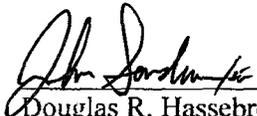
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued: nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. 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.

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

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.

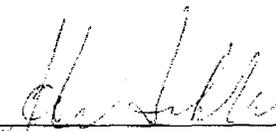
BUREAU OF INDUSTRY AND
SECURITY
U.S. DEPARTMENT OF COMMERCE



Douglas R. Hassebrock
Director of Export Enforcement

Date: December 31, 2014

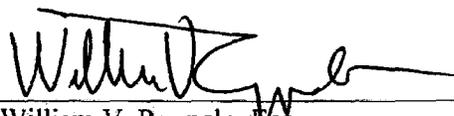
B&H FOTO & ELECTRONICS CORP.



Herman Schreiber
Owner
B&H Foto & Electronics Corp

Date: December 30, 2014

Reviewed and approved by:



William V. Roppolo, Esq.
Baker & McKenzie, LLP
Counsel for B&H Foto & Electronics Corp.

Date: December 31, 2014

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

B&H Foto & Electronics Corp.
420 9th Avenue
New York, NY 10001

*Attn: Herman Schreiber
Owner*

Dear Mr. Schreiber:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that B&H Foto & Electronics Corp. of New York, New York (“B&H Foto”), has committed 50 violations of the Export Administration Regulations (the Regulations),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that B&H Foto committed the following violations:

Charges 1-50: 15 C.F.R. § 764.2(a) – Unlicensed Exports of Optical Sighting Devices

As described in greater detail in the attached Schedule of Violations, which is incorporated by reference herein, on 50 occasions between on or about March 27, 2009, and on or about November 19, 2012, B&H Foto engaged in conduct prohibited by the Regulations when it exported items subject to the Regulations from the United States to various countries, including Russia, Kazakhstan, Hong Kong, Saudi Arabia and South Africa, without the required Department of Commerce licenses. Specifically, B&H Foto exported optical sighting devices, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”) 0A987, and valued at approximately \$23,000. Items classified under ECCN 0A987 are controlled for Crime Control reasons and pursuant to Section 742.7 of the Regulations require a Department of Commerce license before they can be exported to each of the destinations at issue. In exporting these items from the United States without the required licenses, B&H Foto committed 50 violations of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2014). The charged violations occurred between 2009 and 2012. The Regulations governing the violations at issue are found in the 2009-2012 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2009-2012)). The 2014 Regulations set forth the procedures that currently apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp IV 2010)).

B&H Foto & Electronics Corp.
Proposed Charging Letter

* * * * *

Accordingly, B&H Foto 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:

- 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.

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

B&H Foto 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. B&H Foto 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 B&H Foto have a proposal to settle this case, B&H Foto or its 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, B&H Foto' 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

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

B&H Foto & Electronics Corp.
Proposed Charging Letter

In addition, a copy of B&H Foto's 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 B&H Foto may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482-5301, or by email at gmichelsen@doc.gov.

Sincerely,

Douglas R. Hassbrock
Director
Office of Export Enforcement

SCHEDULE OF VIOLATIONS

Charge No.	B&H Order No & Commercial Invoice No	Ship Date	Ship-To Country	Product Description	Export Classification	Ship Qty	Total Amount
1	256484840	3/27/2009	FRENCH GUIANA	Optical Sighting Device	0A987	2	\$85.90
2	255832210	4/2/2009	FRENCH GUIANA	Optical Sighting Device	0A987	1	\$34.50
3	260105230	5/7/2009	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$32.95
4	269927910	8/24/2009	PHILIPPINES	Optical Sighting Device	0A987	1	\$449.95
5	270899180	10/12/2009	SERBIA	Optical Sighting Device	0A987	1	\$42.95
6	288220220	2/11/2010	SOUTH AFRICA	Optical Sighting Device	0A987	3	\$1,197
7	289839160	2/26/2010	SAUDI ARABIA	Optical Sighting Device	0A987	1	\$154.99
8	289859080	3/9/2010	BRAZIL	Optical Sighting Device	0A987	1	\$2,228.95
9	290486490	3/18/2010	SAUDI ARABIA	Optical Sighting Device	0A987	1	\$159.95
10	293068120	3/28/2010	SERBIA	Optical Sighting Device	0A987	1	\$472.50
11	293410020	4/7/2010	SAUDI ARABIA	Optical Sighting Device	0A987	1	\$1,074.99
12	293445330	4/9/2010	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$599.95
13	294180150	4/14/2010	SOUTH AFRICA	Optical Sighting Device	0A987	1	\$1,139
14	290741070	5/4/2010	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$409.95
15	302349720	6/24/2010	RUSSIA	Optical Sighting Device	0A987	1	\$33.95
16	310132900	9/6/2010	SWEDEN	Optical Sighting Device	0A987	1	\$44.89
17	310249200	9/7/2010	SOUTH AFRICA	Optical Sighting Device	0A987	1	\$874.99
18	310693330	9/14/2010	SOUTH AFRICA	Optical Sighting Device	0A987	4	\$527.96
19	311009370	9/16/2010	SWEDEN	Optical Sighting Device	0A987	2	\$86
20	310641850	9/19/2010	BRAZIL	Optical Sighting Device	0A987	1	\$122.49
21	311522880	9/20/2010	SWEDEN	Optical Sighting Device	0A987	1	\$35
22	311774170	10/4/2010	SOUTH AFRICA	Optical Sighting Device	0A987	2	\$799.98
23	312267440	10/5/2010	SWEDEN	Optical Sighting Device	0A987	2	\$84
24	313415180	10/14/2010	SWEDEN	Optical Sighting Device	0A987	2	\$101
25	312831250	10/20/2010	BRAZIL	Optical Sighting Device	0A987	1	\$179.99
26	314031040	10/20/2010	KAZAKHSTAN	Optical Sighting Device	0A987	3	\$310.47
27	310176410	10/28/2010	SINGAPORE	Optical Sighting Device	0A987	1	\$1,799.95
28	311292050	10/28/2010	SOUTH AFRICA	Optical Sighting Device	0A987	2	\$263.98
29	314992550	10/28/2010	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$599.99
30	315286270	10/31/2010	SOUTH AFRICA	Optical Sighting Device	0A987	1	\$398.99
31	315912150	11/10/2010	BRAZIL	Optical Sighting Device	0A987	1	\$119.95
32	316454600	11/10/2010	SWEDEN	Optical Sighting Device	0A987	1	\$119.95
33	317545110	11/18/2010	THAILAND	Optical Sighting Device	0A987	5	\$624.95
34	317778550	11/23/2010	SOUTH AFRICA	Optical Sighting Device	0A987	3	\$163.95
35	318044680	11/23/2010	SWEDEN	Optical Sighting Device	0A987	2	\$71

SCHEDULE OF VIOLATIONS

Charge No.	B&H Order No & Commercial Invoice No	Ship Date	Ship-To Country	Product Description	Export Classification	Ship Qty	Total Amount
36	318893800	12/3/2010	BRAZIL	Optical Sighting Device	0A987	1	\$398.99
37	318367910	12/7/2010	BRAZIL	Optical Sighting Device	0A987	3	\$389.97
38	319964340	12/8/2010	BRAZIL	Optical Sighting Device	0A987	1	\$119.95
39	318174270	12/15/2010	CHILE	Optical Sighting Device	0A987	1	\$99.95
40	322193370	12/24/2010	SWITZERLAND	Optical Sighting Device	0A987	2	\$146.95
41	325816470	1/12/2011	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$899.00
42	325255620	1/13/2011	KAZAKHSTAN	Optical Sighting Device	0A987	1	\$1,074.99
43	325816470	1/25/2011	KAZAKHSTAN	Optical Sighting Device	0A987	4	\$2,891.76
44	325253440	1/27/2011	SOUTH AFRICA	Optical Sighting Device	0A987	2	\$797.98
45	336567560	4/29/2011	RUSSIA	Optical Sighting Device	0A987	1	\$129.99
46	339464030	5/11/2011	SWEDEN	Optical Sighting Device	0A987	1	\$65
47	352689080	8/26/2011	SWEDEN	Optical Sighting Device	0A987	2	\$134
48	356480210	9/25/2011	SAUDI ARABIA	Optical Sighting Device	0A987	1	\$464.00
49	407811040	10/31/2012	HONG KONG	Optical Sighting Device	0A987	1	\$249.99
50	410245420	11/19/2012	SOUTH AFRICA	Optical Sighting Device	0A987	1	\$139.99