

PROPOSED CHARGING LETTER

Mr. James J. Cannon
Chief Executive Officer
FLIR Systems, Inc.
27700 SW Parkway Avenue
Wilsonville, OR 97070

Re: Alleged Violations of the Arms Export Control Act and the
International Traffic in Arms Regulations by FLIR Systems, Inc.

Dear Mr. Cannon:

The Department of State ("Department") charges FLIR Systems, Inc. ("Respondent" or "FLIR") with violations of the Arms Export Control Act (AECA), 22 U.S.C. 2751 *et seq.*, and the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120-130, in connection with the unauthorized export of defense articles; the unauthorized provision of defense services to various countries, including proscribed destinations; violations of the provisos, terms, and conditions of licenses; and failure to provide accurate and complete reporting on political contributions, commissions, and fees in connection with commercial sales of defense articles or defense services. A total of 347 violations are alleged at this time.

The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend this proposed charging letter, including through a revision to incorporate additional charges stemming from the same misconduct of Respondent. Please be advised that this proposed charging letter, pursuant to 22 CFR § 128.3, provides notice of our intent to impose civil penalties in accordance with 22 CFR § 127.10.

When determining the charges to pursue in this matter, the Department considered a number of mitigating factors. Most notably, the Respondent: (a) submitted eighteen (18) voluntary disclosures pursuant to 22 CFR § 127.12 that acknowledged a portion of the charged conduct and other potential ITAR violations; (b) entered into an agreement with the Department's Directorate of Defense Trade Controls ("DDTC") tolling the statutory period; and (c) instituted a number of self-initiated compliance program improvements during the course of DDTC's review.

The Department also considered countervailing factors, including: (a) significant compliance program and internal control deficiencies that directly contributed to the violations; (b) deficient ITAR expertise and senior leadership oversight during time periods covered by voluntary disclosures in this letter; (c) failure to effectively investigate, uncover, and disclose violations; (d) frequency and repetitive nature of the same violations; and (e) failure to implement remedial compliance measures represented to the Department.

JURISDICTION

Respondent is a corporation organized under the laws of the State of Oregon and a U.S. person within the meaning of 22 CFR § 120.15. Respondent is subject to the jurisdiction of the United States.

Respondent was engaged in the manufacture and export of defense articles and was registered as a broker, manufacturer, and exporter with DDTC, in accordance with 22 U.S.C. 2778(b) and 22 CFR § 122.1 during the period described herein.

FLIR Surveillance, Inc. is a U.S. subsidiary, and FLIR Systems AB (“FLIR AB”) is a Swedish subsidiary of Respondent.

The described violations relate to defense articles, including technical data, controlled under Categories VIII, XI, and XII¹ of the United States Munitions List (USML), 22 CFR § 121.1, at the time the violations occurred. Some of the relevant defense articles are further defined as significant military equipment (“SME”), requiring a DSP-83 Nontransfer and Use Certificate.

BACKGROUND

Respondent manufactures and exports advanced sensors and integrated sensor systems for various military and commercial platforms used to protect borders, gather intelligence, and protect critical infrastructure. Respondent relies heavily on its international sales as explained in its U.S. Securities and Exchange Form 10-K, dated December 31, 2017, and requires regular interaction with the

¹ 78 FR 22740 revised and 78 FR 22759 corrected USML Category VIII, effective 10/15/2013. 79 FR 37536 revised and 79 FR 77884 corrected USML Category XI, effective 12/30/2014. 81 FR 70340 revised USML Category XII, effective 12/31/2016.

Department. Between January 1, 2012 and December 31, 2016, which is during the relevant period of this proposed charging letter, the Department approved 3,740 licenses, authorizing \$9.9 billion of exports.

VIOLATIONS

ITAR violations included in this proposed charging letter are derived from Respondent's voluntary disclosures and matters not voluntarily disclosed to DDTC in accordance with 22 CFR § 127.12, to include violations DDTC uncovered. Due in part to the large number of violations over an extended period of time, the Department provides a summary of the violations. Many of the violations fall into three general categories: foreign-person employment, license management, and 22 CFR Part 130 payments. Also included in this proposed charging letter are additional charges for violations resulting from Respondent's inadequate internal controls and commitment to compliance. The conduct is not localized to a specific facility, product line, sales territory, or authorization type.

Respondent repeatedly discovered and disclosed violations to DDTC, in some cases finding that previously reported assurances, to include remedial compliance measures were not implemented, and in one instance, the disclosed activity in violation of the ITAR continued. In other cases, Respondent's reported remedial measures failed to prevent or detect additional similar violations.

I. Unauthorized Exports to Foreign-Person Employees

Between April 3, 2008 and August 24, 2012, Respondent submitted four (4) voluntary disclosures describing the unauthorized export of technical data and defense articles; and unauthorized provision of defense services involving the design, manufacture, and sale of thermal imaging camera systems then controlled by USML Category XII to dual national/third country national ("DN/TCN") employees from over 15 countries, including Iran, Iraq, and Lebanon, that were prohibited destinations pursuant to 22 CFR § 126.1 at the relevant time. Violations were disclosed as having occurred at the company's domestic and overseas locations. In reliance on the reported remedial measures to prevent recurrence, DDTC closed the voluntary disclosure cases without imposing a civil penalty.

In June 2014, Respondent disclosed that it had not previously reported the full scope of violations related to foreign-person employees and that Respondent did not implement certain corrective actions that it had previously represented to

DDTC that it already had implemented, to include terminating unauthorized access and confirming U.S. person status of its existing employees accessing defense articles. Respondent identified violations pertaining to the activities of foreign-person employees from additional countries not previously disclosed, to include 22 CFR § 126.1 countries of Cuba and Vietnam.² The scope of activities in violation of the ITAR involved the design, manufacture, repair, and sale of thermal imaging camera systems, including camera cores and gimbals, and radar systems for purposes of ground and airborne intelligence, surveillance, and reconnaissance generally controlled under USML Category XII, and as applicable, further designated as SME, at that time.

Respondent disclosed that it did not collect citizenship information necessary to determine licensing requirements for its foreign-person employees and that one subsidiary, FLIR AB of Sweden, did not effectively manage evidence of foreign-person employees holding nationality from more than one country, to include 22 CFR § 126.1 countries, for purposes of ITAR compliance.

Respondent disclosed that the manner in which it granted employees permissions to the information technology (IT) system resulted in unauthorized access by DN/TCNs to ITAR-controlled technical data. These foreign-person employees had access to technical data at their assigned worksite and at Respondent's worksites located in foreign countries. Approximately 1,350 foreign-person employees had access to all ITAR-controlled technical data (over 1,400 files) located on Respondent's servers in 22 non-U.S. facilities.³

II. Failure by Respondent to Properly Apply for and Manage Department of State Licenses and Exemptions

Respondent submitted to DDTC multiple voluntary disclosures describing its poor management of export authorizations and exemptions. The types of violations include unauthorized exports; failure to comply with the terms and conditions of authorizations; misuse of exemptions; inaccurate or incomplete shipping documents; and failure to obtain proper license endorsements involving

² 81 FR 189, dated September 29, 2016 removed Vietnam as a proscribed destination under ITAR § 126.1. The relevant period of this PCL for disclosures applicable to nationals of Vietnam is prior to the effective date of 81 FR 189.

³ While access does not mean that the employees viewed the information, Respondent lacked the IT records that could confirm which employees actually accessed ITAR-controlled files. Respondent concluded that violations occurred at 22 of its non-U.S. facilities. It is the Department's position that Respondent transferred technical data to foreign-person employees that was necessary for their job performance on its servers without authorization.

defense articles generally controlled under USML Category XII, and certain articles further defined as SME, at that time: thermal imaging systems, lenses, and integrated dewar cooler assemblies.

In the context of international trade shows, Respondent also disclosed the loss or theft of defense articles because of inadequate safeguards, such as displaying a defense article outside of Respondent's field of view and unsecured to the display. In one instance, Respondent's Events Coordinator secured the camera, USML XII(c), SME in an exhibitor cabinet; all exhibitor cabinets were accessible with the same key. In more than one instance, Respondent failed to notify DDTC of the loss/theft of defense articles within a certain timeframe, in violation of the relevant license proviso. Respondent also disclosed that it has historically failed to obtain authorization for foreign vendors and contractors who store, forward, modify, or incorporate Respondent's ITAR-controlled defense articles into other end items.

Respondent's internal review of some its temporary export authorizations from August 2007 to June 2013 concluded that one or more violations occurred in all 32 licenses reviewed. The violations included failure to decrement or inaccurately report quantities of items shipped; failure to record shipments properly or at all; failure to return items to the U.S. prior to the license expiration; and destruction or retransfer of defense articles without authorization. In several instances, Respondent failed to comply with the requirement of ITAR § 123.9(b) to inform end-users and foreign consignees that the defense articles being exported are subject to U.S. export laws and regulations. A foreign consignee confirmed this when it notified DDTC that it did not know the end-use requirements applicable to the Respondent's products.

Respondent disclosed conducting fourteen (14) shipments of radars controlled under USML Category XI(a)(3)(i), SME, without obtaining Nontransfer and Use Certificates (DSP-83), contrary to the condition of the Canadian exemption, 22 CFR § 126.5(b). Three of the fourteen non-compliant shipments occurred after Respondent uncovered the earlier violations and had implemented measures that were supposed to prevent future, similar violations.

Respondent's license submission practices presented a challenge for DDTC to assess the proposed transactions described in license applications. In particular, it posed a challenge for DDTC to confirm the bona fides of parties and perform end-use monitoring. Respondent repeatedly submitted inconsistent information on

its agreement applications and relevant attachments (e.g., failed to identify destinations proscribed under 22 CFR § 126.1), further complicating DDTC's review of proposed transactions.

DDTC's review of Respondent's license submissions reflect deficiencies in at least three (3) areas: 1) failure to comply with and/or implement license provisos or conditions directed at subsequent license submissions; 2) failure to submit required information in accordance with the ITAR; and 3) misrepresentation and/or omission of material fact in violation of the ITAR. In addition, Respondent submitted six (6) license applications with an ineligible entity per 22 CFR § 120.1(c)(2). Respondent informed DDTC that it was aware that the entity was ineligible prior to submitting the license applications but still included it because the entity was selected as the exclusive freight forwarder and on-site handling agent for a major defense trade show.

Respondent also disclosed that it failed to reflect a corporate reorganization, effective January 1, 2015, which created a new subsidiary, FLIR Surveillance, in new license submissions and amend existing licenses and agreements. FLIR Surveillance produces the majority of the Respondent's ITAR-controlled products. As a result, from January 1, 2015 to mid-2016, Respondent exported defense articles and provided defense services on both licenses and agreements that did not reflect FLIR Surveillance's role in violation of the ITAR. Respondent's error occurred in part from its failure to contact the Office of Defense Trade Controls Licensing to address licensing issues stemming from reorganization.

III. Undisclosed Payments under Part 130

In 2011, Respondent disclosed violations related to the failure to report payments of political contributions, fees, and commissions as required by 22 CFR Part 130. This disclosure related only to exports pursuant to DSP-5 licenses for permanent export. In that disclosure, Respondent described implementing corrective actions applicable to DSP-5 licenses to reduce future violations.

In 2016, with respect to 19 technical assistance agreements involving the maintenance or installation of Respondent's thermal imaging systems or a component thereof on primarily military platforms (generally controlled under USML Category XII, SME), Respondent disclosed its failure to submit required 22 CFR Part 130 reports concerning obligations to pay commissions. Respondent also neglected to update DDTC concerning the payment of commissions under 22

CFR § 130.10 and report over \$8 million of actual fees or commissions paid pertaining to 10 of the 19 agreements. Respondent acknowledged that the company did not extend the same corrective actions identified in its 2011 voluntary disclosure to agreements.

RELEVANT ITAR REQUIREMENTS

The relevant period for the alleged conduct is June 17, 2010, through April 26, 2017. The regulations effective as of June 17, 2010, are described below. Any amendments to the regulations during the relevant period are identified in a footnote.

22 CFR § 121.1 for the entire period of the alleged conduct identified the items that are defense articles, technical data, and defense services pursuant to Section 38 of the AECA.

22 CFR § 120.7 for the entire period of the alleged conduct described significant military equipment for which special export controls are warranted because of their capacity for substantial military utility or capability.

22 CFR § 122.4(a) for the entire period of the alleged conduct described that a registrant must, within five days of the event, provide to DDTC a written notification if there is a change in certain information contained in its Statement of Registration.

22 CFR § 122.5(a) described that a person who is required to register must maintain records concerning the manufacture, acquisition and disposition, of defense articles; of technical data; the provision of defense services; brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required by 22 CFR § Part 130. All records must be maintained for a period of five (5) years from the expiration of the authorization or from the date of the transaction.⁴

22 CFR § 123.5 for the entire period of the alleged conduct described the requirements for temporary exports.⁵

⁴ Amendment to 22 CFR § 122.5(a) from June 17, 2010, through April 26, 2017: 79 FR 8082, dated February 11, 2014, effective February 11, 2014.

⁵ Amendment to 22 CFR § 123.5 from June 17, 2010, through April 26, 2017: 82 FR 15, dated January 3, 2017, effective December 31, 2016.

22 CFR § 123.9(b) described that the exporter shall incorporate the following statement as an integral part of the bill of lading, and the invoice whenever defense articles on the U.S. Munitions List are to be exported: These commodities are authorized by the U.S. Government for export only to [country of ultimate destination] for use by [end-user]. They may not be transferred, transshipped on a non-continuous voyage, or otherwise be disposed of in any other country, either in their original form or after being incorporated into other end-items, without the prior written approval of the U.S. Department of State.⁶

22 CFR § 126.1(a) for the entire period of the alleged conduct described that it is the policy of the U.S. to deny licenses and other approvals for exports and imports of defense articles and defense services destined for or originating in certain countries, including those prohibited by United Nations Security Council embargoes.⁷

22 CFR § 126.1(e) for the entire period of the alleged conduct described that anyone that knows or has reason to know of a proposed or actual sale, or transfer, of a defense article, defense service or technical data to a prohibited country must immediately inform DDTC.

22 CFR § 127.1(a) described that is unlawful to export, import, re-export or re-transfer any defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the required license or written approval from DDTC; to violate any of the terms or conditions of licenses or approvals granted pursuant to the ITAR; or to engage in the business of manufacturing, exporting, or brokering without complying with the registration requirements.⁸

⁶ Amendments to 22 CFR § 123.9(b) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, June 5, 2012, effective date April 13, 2012; 78 FR 22740, 22759, dated Apr. 16, 2013, effective October 15, 2013 as corrected at 78 FR 61750, 61755, dated October 3, 2013, effective October 15, 2013; and 81 FR 54732 dated Aug. 17, 2016, effective November 15, 2016.

⁷ During the relevant period, June 17, 2010, through April 26, 2017, the Department amended 22 CFR § 126.1(a) to add and remove certain countries. Applicable to this proposed charging letter is 81 FR 66804, dated September 29, 2016, effective September 29, 2016 which removed Vietnam as a proscribed destination under 22 CFR § 126.1(a).

⁸ Amendments to 22 CFR § 127.1(a) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012; and 78 FR 52680, dated August 26, 2013, effective October 25, 2013. 22 CFR § 127.1(a)(5) as amended by 78 FR 52680, 52688 explained it is unlawful to possess or attempt to possess any defense article with intent to export or transfer such defense article in violation of any regulation, license, approval, or order issued thereunder.

22 CFR § 127.1(b) described that any person who is granted a license or other approval under the ITAR is responsible for the acts of employees, agents, and all authorized persons to whom possession of the licensed defense article or technical data has been entrusted regarding the operation, use, possession, transportation, and handling of such defense article or technical data abroad. All persons abroad subject to U.S. jurisdiction who obtain temporary custody of a defense article exported from the United States or produced under an agreement described in part 124 of the ITAR, and irrespective of the number of intermediate transfers, are bound by the regulations of the ITAR in the same manner and to the same extent as the original owner or transferer.⁹

22 CFR § 127.1(c) described that a person with knowledge that another person is then ineligible pursuant to §§120.1(c) or 126.7 or subject to an order of debarment or interim suspension, may not, directly or indirectly, in any manner or capacity, without prior disclosure of the facts to, and written authorization from DDTC conduct certain activities with such person.¹⁰

22 CFR § 127.1(d) described that no person may knowingly or willfully cause, or aid, abet, counsel, demand, induce, procure or permit the commission of any act prohibited by, or the omission of any act prohibited by, or the omission of any act required by 22 U.S.C. 2778, 22 U.S.C. 2779, or any regulation, license, approval, or order issued thereunder.¹¹

22 CFR § 127.2(a) described that it is unlawful to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any defense article or technical data or the furnishing of any defense service for which a license or approval is required by the ITAR.¹²

⁹ Amendment to 22 CFR § 127.1(b) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012.

¹⁰ Amendments to 22 CFR § 127.1(c) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012; and 78 FR 52680, dated August 26, 2013, effective October 25, 2013.

¹¹ Amendments to 22 CFR § 127.1(d) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012; and 78 FR 52680, dated August 26, 2013, effective October 25, 2013.

¹² Amendments to 22 CFR § 127.2(a) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012; and 78 FR 52680, dated August 26, 2013, effective October 25, 2013. 22 CFR § 127.2(a) as amended by 77 FR 16592 explained it is unlawful to attempt to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any defense article or technical data or the furnishing of any defense service for which a license or approval is required by the ITAR.

22 CFR § 127.2(b) described export and temporary import control documents for the purposes of 22 CFR § 127.2(a).¹³

22 CFR § 130.9 described that applicants must inform DDTC as to whether the applicant or its vendors have paid or offered or agreed to pay fees or commissions in respect of any sale for which a license or approval is requested.¹⁴

22 CFR § 130.10 for the entire period of the alleged conduct described that persons required under 22 CFR § 130.9 to furnish information must furnish the information described in 22 CFR § 130.10 to DDTC.

22 CFR § 130.14 for the entire period of the alleged conduct described that each applicant must maintain a record of any information it was required to furnish or obtain under Part 130 and all records upon which its reports are based for a period of not less than five years following the date of the report to which they pertain.

CHARGES

Charges 1-219: Unauthorized Exports to Foreign-Person Employees at 22 of Respondent's Non-U.S. Facilities

Respondent violated 22 CFR § 127.1(a)(2) and 127.1(b)(1) one-hundred and forty (140) times when without authorization Respondent, to include FLIR AB, Sweden, caused to be reexported ITAR-controlled defense articles or technical data, to include electronic data on its IT system, and provided defense services to foreign-person employees with citizenship or permanent residency not authorized under agreements in violation of the terms and conditions or provisos of Respondent's agreements.

Respondent, to include FLIR AB, Sweden, violated 22 CFR § 126.1(e)(2) eleven (11) times when it failed to inform DDTC of the reexport of defense articles and technical data that it had had reason to know had been reexported to dual

¹³ Amendments to 22 CFR § 127.2(b) from June 17, 2010, through April 26, 2017: 77 FR 16592, dated March 21, 2012, implemented by 77 FR 33089, dated June 5, 2012, effective date April 13, 2012; and 78 FR 52680, dated August 26, 2013, effective October 25, 2013. 77 FR 16592 added a new provision, (b)(14): Any other shipping document that has information related to the export of the defense article or defense service.

¹⁴ Amendment to 22 CFR § 130.9 from June 17, 2010, through April 26, 2017: 79 FR 8082, dated February 11, 2014, effective February 11, 2014.

national foreign-person employees who held citizenship or permanent residency of a country prohibited by 22 CFR § 126.1(a).

Respondent violated 22 CFR § 127.1(e) twenty-three (23) times when Respondent, to include FLIR AB, Sweden, continued to allow unauthorized reexports of ITAR-controlled defense articles and technical data (including derivative technical data) to foreign-person employees. Seven (7) of the 23 charges are pursuant to foreign-persons from 22 CFR § 126.1 destinations.

Respondent violated 22 CFR § 127.1(a)(1) one (1) time when without authorization it exported defense articles to foreign-person employees who held citizenship or permanent residency of a country prohibited by 22 CFR § 126.1(a).

Respondent violated 22 CFR § 122.5 twenty-two (22) times when Respondent failed to collect and maintain records of reexports of technical data on its IT systems.

Respondent violated 22 CFR § 127.2(a) twenty-one (21) times when it misrepresented and/or omitted material facts in license applications pursuant to 22 CFR § 127.2(b)(1) when it failed to disclose to the Department the citizenship or permanent residency of the Respondent's foreign person employees participating in the regulated activities described in license applications.

Respondent violated 22 CFR § 127.2(a) one (1) time concerning misrepresentations of material facts when Respondent provided inaccurate information concerning its implementation of the anticipated corrective action in disclosures involving foreign-person employees pursuant to 22 CFR § 127.2(b)(13).

Charges 220-326: Failure to Export Defense Articles in accordance with the ITAR

Respondent violated 22 CFR § 127.1(a)(1) one (1) time when it without authorization exported five (5) THV-3000 thermal imaging systems controlled at the time of export under USML Category XII(c), SME.

Respondent violated 22 CFR § 127.1(a)(2) three (3) times when it without authorization reexported or changed the end use of defense articles involving two (2) integrated dewar cooler assemblies and thirteen (13) lenses controlled under

USML Category XII(c), SME, and USML Category XII(e) at the time of reexport, respectively.

Respondent violated 22 CFR § 127.1(b)(1) thirty-eight (38) times when it violated the terms or conditions of a license or approval granted to Respondent or conditions of an exemption.

Respondent violated 22 CFR § 123.5 thirty-two (32) times when it failed to retain records or obtain endorsements by the U.S. Customs and Border Protection on thirty-two (32) temporary exports licenses in accordance with 22 CFR § 123.5.

Respondent violated 22 CFR § 127.1(a)(4) four (4) times when Respondent and persons to whom Respondent had entrusted possession of Respondent's defense article caused the loss/theft of the defense article temporarily exported under four (4) licenses in four (4) instances.

Respondent violated 22 CFR § 127.2(a) one (1) time when Respondent failed to ensure its freight forwarder correctly identified the defense articles, radars, as SME in the Electronic Export Information filing.

Respondent violated 22 CFR § 122.5(a) one (1) time when it failed to maintain complete or legible export control records related to shipping.

Respondent violated 22 CFR § 123.9(b)(1) one (1) time when Respondent failed to incorporate the export control statement specified in 22 CFR § 123.9(b)(1) as an integral part of the bill of lading, air waybill, or other shipping document.

Respondent violated 22 CFR § 127.1(e) one (1) time, when Respondent from August 11, 2015 to June 5, 2016 continued to permit the use of a defense article, one (1) thermal imaging camera core controlled at the time under USML Category XII(c), SME by foreign end user in violation of the terms or conditions of a license.

Respondent violated 22 CFR § 127.2(a) two (2) times when Respondent's export documents as described in 127.2(b)(14) contained statements misrepresenting that the ITAR shipment was subject to the Export Administration Regulations.

Respondent violated 22 CFR § 127.2(a) twenty (20) times when it misrepresented or omitted material facts in 20 license applications for permanent exports, temporary exports, reexport, and retransfer.

Respondent violated 127.2(a) one (1) time when it attempted to use an ineligible party per 22 CFR § 120.1(c)(2) as a “party to the export” as defined in ITAR sections 126.7(e)(2) and 126.7(e)(3) in six (6) license applications.

Respondent violated 22 CFR Section § 127.2(a) two (2) times when it exported defense articles, to include technical data against licenses and agreements that did not represent FLIR Surveillance, Inc.’s participation.

Charges 327-347: Failure to Disclose Payments under Part 130

Respondent violated 22 CFR § 130.9(a)(1) nineteen (19) times when it failed to disclose it had paid or offered or agreed to pay fees, or commissions in respect of a sale for which a license or other approval was required.

Respondent violated 22 CFR § 130.9(d) one (1) time when it failed to update DDTC concerning the payment of commissions reportable under § 130.10.

Respondent violated 22 CFR § 130.14 one (1) time when it failed to maintain Part 130 records.

ADMINISTRATIVE PROCEEDINGS

Pursuant to 22 CFR § 128.3(a), administrative proceedings against a respondent are instituted by means of a charging letter for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three (3) years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$ 1,134,602, per violation, may be imposed as well, in accordance with 22 U.S.C. 2778(e) and 22 CFR § 127.10.

A respondent has certain rights in such proceedings as described in 22 CFR Part 128. This is a proposed charging letter. In the event, however, that the Department serves Respondent with a charging letter, the company is advised of the following:

You are required to answer a charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges and you may be held in default. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that the company is served with a charging letter, its answer, written demand for oral hearing (if any) and supporting evidence required by 22 CFR § 128.5(b), shall be in duplicate and mailed to the administrative law judge designated by the Department to hear the case at the following address:

USCG, Office of Administrative Law Judges G-CJ,
2100 Second Street, SW
Room 6302
Washington, DC 20593.

A copy shall be simultaneously mailed to the Acting Deputy Assistant Secretary for Defense Trade Controls:

Acting Deputy Assistant Secretary Michael Miller
US Department of State
PM/DDTC
SA-1, 12th Floor,
Washington, DC 20522-0112.

If a respondent does not demand an oral hearing, it must transmit within seven (7) days after the service of its answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue.

Please be advised also that charging letters may be amended upon reasonable notice. Furthermore, pursuant to 22 CFR § 128.11, cases may be settled through consent agreements, including after service of a proposed charging letter.

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The U.S. government is free to pursue civil, administrative, and/or criminal enforcement for AECA and ITAR violations. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Michael F. Miller
Acting Deputy Assistant Secretary