

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

In the Matter of:)
)
Sirchie Acquisition Company, LLC)
100 Hunter Road)
Youngsville, NC 27956)
)
Respondent)

ORDER RELATING TO SIRCHIE ACQUISITION COMPANY, LLC

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Sirchie Acquisition Company, LLC (“SA”), a Delaware limited liability company, as successor to Sirchie Fingerprint Laboratories, Inc. (“SFPL”), a New Jersey corporation,¹ of its intention to initiate an administrative proceeding against SA pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2009)) (the “Regulations”),² and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),³ through the issuance of a proposed charging

¹ On January 15, 2008, SA acquired substantially all of the assets of SFPL pursuant to an Amended and Restated Stock and Asset Purchase Agreement, dated September 12, 2007. The charges that are the subject of this Agreement occurred prior to SA’s acquisition of SFPL’s assets on January 15, 2008, and SA is liable as SFPL’s successor

² The violations alleged occurred in 2006 and 2007. The Regulations governing the allegations at issue are found in the 2006 and 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006-2007)). The 2009 Regulations govern the procedural aspects of the case.

³ 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 August 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707) (“IEEPA”).

letter to SA that alleged that SA committed ten (10) violations of the Regulations. Specifically, the charges are:

Charges 1-10: 15 C.F.R. § 764.2(b): Aiding and Abetting Violations of a Denial Order Issued Under the Regulations

On 10 occasions between in or about February 2006 and in or about November 2007, SA aided and abetted actions taken to evade the order denying the export privileges of John Carrington, an order issued under the Regulations. On September 22, 2005, an order was issued denying John Carrington's export privileges for a period of five years (see 70 Fed. Reg. 56,630 (Sept. 28, 2005)), and said denial order remained in effect at the time of these actions. The denial order prohibited John Carrington from participating, directly or indirectly, in any way in any transaction involving any item subject to the Regulations exported or to be exported from the United States. SA, inter alia, provided to John Carrington requests for price quotes for items to be exported that were subject to the Regulations, received pricing information from John Carrington, and engaged in export transactions involving these items. In so doing, SA committed 10 violations of Section 764.2(b) of the Regulations.

WHEREAS, BIS and SA 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 \$2,500,000 is assessed against SA, all of 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, SA 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 SA.

FOURTH, for a period of five years from the date of entry of the Order, Sirchie Acquisition Company, LLC, 100 Hunter Place, Youngsville, North Carolina 27956 ("SA"), its successors or assigns, and when acting for or on behalf of SA, its officers, employees, representatives, or agents ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FIFTH, that no person may, directly or indirectly, do any of the following:

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

B. Take any action that facilitates the acquisition or attempted acquisition by the 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, including financing or other support activities related to a transaction whereby the 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the 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; 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 and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the 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. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SIXTH, 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 SA 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.

SEVENTH, that 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.

EIGHTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period set forth above shall be suspended in its entirety for five years from the date of this Order, and shall thereafter be waived, provided that within 30 days of the date of this Order, SA pays the monetary penalty of \$2,500,000 in full, and provided that during the period of suspension, SA has committed no violation of the Act or any regulation, order or license issued thereunder.

NINTH, that upon the effective date of this Order, the provisions of the September 21 2005 settlement agreement entered into by BIS and SFPL and of the September 22, 2005 order relating to the denial of SFPL's export privileges and the suspension of that denial of export privileges will no longer apply as to SA. As to all other provisions and for all purposes other than the application of the denial of export privileges and suspension of that denial of export privileges to SA as successor to SFPL, the September 21, 2005 settlement agreement and September 22, 2005 order between BIS and SFPL remains in effect.

TENTH, that, except as described in paragraph Ninth above, nothing in this Order modifies, terminates or supersedes in any way any other settlement agreement or order entered into by BIS and any other party. Furthermore, nothing in this Order shall be construed as in any way limiting or precluding BIS from proposing or bringing charges, seeking remedies or sanctions, or taking any other action, as to any other person.

ELEVENTH, 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.



Thomas Madigan
Acting Deputy Assistant Secretary of Commerce
for Export Enforcement

Entered this 12th day of February, 2010.

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

In the Matter of:)
)
Sirchie Acquisition Company, LLC)
100 Hunter Place)
Youngsville, NC 27956)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Sirchie Acquisition Company, LLC (“SA”), a Delaware limited liability company, of Youngsville, NC, as successor to Sirchie Fingerprint Laboratories, Inc. (“SFPL”), a New Jersey corporation,¹ 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”),² issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).³

¹ On January 15, 2008, SA acquired substantially all of the assets of SFPL pursuant to an Amended and Restated Stock and Asset Purchase Agreement, dated September 12, 2007. The charges that are the subject of this Agreement occurred prior to SA’s acquisition of SFPL’s assets on January 15, 2008, and SA is liable as SFPL’s successor.

² The charged violations occurred in 2006 and 2007. The Regulations governing the violations at issue are found in the 2006 and 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006-2007)). The 2008 Regulations establish the procedures that apply to this matter.

³ 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect

WHEREAS, BIS has notified SA of its intention to initiate an administrative Proceeding against SA, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to SA that alleged that SA committed ten (10) violations of the Regulations, specifically:

Charges 1-10: 15 C.F.R. § 764.2(b): Aiding and Abetting Violations of a Denial Order Issued Under the Regulations

On 10 occasions between in or about February 2006 and in or about November 2007, SA aided and abetted actions taken to evade the order denying the export privileges of John Carrington, an order issued under the Regulations. On September 22, 2005, an order was issued denying John Carrington's export privileges for a period of five years (see 70 Fed. Reg. 56,630 (Sept. 28, 2005)), and said denial order remained in effect at the time of these actions. The denial order prohibited John Carrington from participating, directly or indirectly, in any way in any transaction involving any item subject to the Regulations exported or to be exported from the United States. SA, inter alia, provided to John Carrington requests for price quotes for items to be exported that were subject to the Regulations, received pricing information from John Carrington, and engaged in export transactions involving these items. In so doing, SA committed 10 violations of Section 764.2(b) of the Regulations.

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

under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707) ("IEEPA").

WHEREAS, the Parties enter into this Agreement having taken into consideration a deferred prosecution agreement that SA has agreed to enter into with the U.S. Attorney for the Eastern District of North Carolina in a related criminal case;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over SA, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against SA in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
 - a. SA shall be assessed a civil penalty in the amount of \$2,500,000, all of which shall be paid to the U.S. Department of Commerce within 30 days from the date 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 SA.

- c. For a period five years from the date of entry of the Order, SA, its successors or assigns, and, when acting for or on behalf of SA, its officers, employees, representatives, or agents ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
- i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- d. BIS agrees that, as authorized by Section 766.18 (c) of the Regulations, the five-year denial period set forth in paragraph 2.c.

shall be suspended in its entirety for a period of five years from the entry of the appropriate Order, and shall thereafter be waived, provided that within 30 days of the date of the Order, SA pays the monetary penalty of \$2,500,000 in full, and provided that during the period of suspension, SA has committed no violation of the Act or any regulation, order or license issued thereunder.

- e. Upon the effective date of this Order, the provisions of the September 21, 2005 settlement agreement entered into by BIS and SFPL, and of the September 22, 2005 order relating to the denial of SFPL's export privileges and the suspension of that denial of export privileges, will no longer apply as to SA. As to all other provisions and for all purposes other than the application of the denial of export privileges and suspension of that denial of export privileges to SA as successor to SFPL, the September 21, 2005 settlement agreement and the September 22, 2005 order remain in effect.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, SA 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, BIS will not initiate any further administrative proceeding against SA in connection with any violation of the Act or the Regulations arising out of the order denying the export privileges of John Carrington, and occurring on or before January 15, 2008.

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.

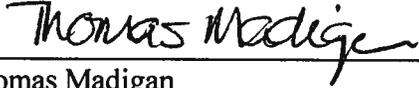
7. Except as set forth in paragraph 2.e above, nothing in this Agreement modifies, supersedes, or terminates in any way any other settlement agreement or order entered into by BIS and any other party. Furthermore, nothing in this Agreement shall be construed as in any way limiting or precluding BIS from proposing or bringing charges, seeking remedies or sanctions, or taking any other action, as to any other person.

8. No agreement, understanding, representation or interpretation not contained in this Agreement, including without limitation the Deferred Prosecution Agreement or any provision thereof, 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 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.

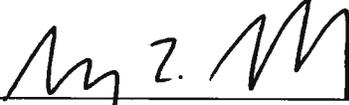
10. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Thomas Madigan
Director
Office of Export Enforcement

SIRCHIE ACQUISITION
COMPANY, LLC



Gary L. Monroe
President

Date: 11/16/09

Date: Oct. 28, 2009

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Sirchie Acquisition Company, LLC
100 Hunter Place
Youngsville, NC 27956

Attn: *Gary L. Monroe*
President

Dear Mr. Monroe:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Sirchie Acquisition Company, LLC (“SA”), a Delaware limited liability company, of Youngsville, North Carolina, as successor to Sirchie Fingerprint Laboratories, Inc. (“SFPL”), a New Jersey corporation,¹ has committed ten (10) violations of the Export Administration Regulations (the “Regulations”),² which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).³ Specifically, BIS alleges that SA committed the following violations:

¹ On January 15, 2008, SA acquired substantially all of the assets of SFPL pursuant to an Amended and Restated Stock and Asset Purchase Agreement, dated September 12, 2007. The charges that are the subject of this Agreement occurred prior to SA’s acquisition of SFPL’s assets on January 15, 2008, and SA is liable as SFPL’s successor

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2008). The alleged violations occurred in 2006 and 2007. The Regulations governing the violations at issue are found in the 2006 and 2007 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006-2007)). The 2008 Regulations set forth the procedures that apply to this matter.

³ 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 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701–1707) (“IEEPA”).

Charges 1-10: 15 C.F.R. § 764.2(b): Aiding and Abetting Violations of a Denial Order Issued Under the Regulations

On 10 occasions between in or about February 2006 and in or about November 2007, SA aided and abetted actions taken to evade the order denying the export privileges of John Carrington, an order issued under the Regulations. On September 22, 2005, an order was issued denying John Carrington's export privileges for a period of five years (see 70 Fed. Reg. 56,630 (Sept. 28, 2005)), and said denial order remained in effect at the time of these actions. The denial order prohibited John Carrington from participating, directly or indirectly, in any way in any transaction involving any item subject to the Regulations exported or to be exported from the United States. SA, inter alia, provided to John Carrington requests for price quotes for items to be exported that were subject to the Regulations, received pricing information from John Carrington, and engaged in export transactions involving these items. In so doing, SA committed 10 violations of Section 764.2(b) of the Regulations.

* * * *

Accordingly, SA 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 \$250,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

SA 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. SA 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.

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

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should SA have a proposal to settle this case, SA or its representative should transmit it to the attorney representing BIS named below.

SA is further notified that under the Small Business Regulatory Enforcement Flexibility Act, SA 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, SA's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street
Baltimore, Maryland 21202-4022

In addition, a copy of SA's answer must be served on BIS at the following address:

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

Peter R. Klason is the attorney representing BIS in this case; any communications that SA may wish to have concerning this matter should occur through him. Mr. Klason may be contacted by telephone at (202) 482-5301.

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement