

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

In the Matter of:	)	
	)	
Sunford Trading, Ltd.	)	Docket No. 04-BIS-14
Room 2208	)	
22/F, 118 Connaught Road West	)	
Hong Kong, China	)	
	)	
Respondent.	)	
	)	

ORDER RELATING TO SUNFORD TRADING, LTD.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has initiated an administrative proceeding against Sunford Trading, Ltd. (“Sunford”) pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> through issuance of a charging letter to Sunford that alleged that Sunford committed three violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations charged occurred during 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2005 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

1. *One violation of 15 C.F.R. § 764.2(e) - Ordering, Buying, Financing, and/or Forwarding Items to China with the Knowledge that a Violation of the Regulations Will Occur.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford ordered, bought, financed, and/or forwarded an industrial hot press furnace to the Beijing Research Institute of Materials and Technology (hereinafter, "BRIMT") in China with knowledge that a violation of the Regulations would occur. Specifically, at the time Sunford ordered, bought, financed, and/or forwarded the furnace, it knew or had reason to know that a Department of Commerce license was required for export to BRIMT under Section 744.3 of the Regulations, and that such license would not be obtained.
  
2. *One violation of 15 C.F.R. § 764.2(d) - Conspiring to Export an Industrial Furnace to China without the Required U.S. Government Authorization.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford conspired or acted in concert with others, known and unknown, to bring about acts that constituted a violation of the Regulations when it agreed to participate in the export of the furnace referenced above to BRIMT in China without the Department of Commerce license required by Section 744.3 of the Regulations. In furtherance of the conspiracy, Sunford and its co-conspirators agreed to conceal the identity of the actual end-user and of the item being

exported in an attempt to circumvent the license requirement described in Section 744.3 of the Regulations.

3. *One violation of 15 C.F.R. § 764.2(b) - Causing an Export to China without the Required Department of Commerce License.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford caused the export of the furnace described above to BRIMT in China without the required Department of Commerce license. Specifically, Sunford ordered, bought, financed, and/or forwarded the industrial furnace described above, thereby causing the furnace to be exported to BRIMT in China despite the fact that the Department of Commerce license required by Section 744.3 of the Regulations had not been obtained.

WHEREAS, BIS and Sunford have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$33,000 is assessed against Sunford, 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,

Sunford 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 Sunford. Accordingly, if Sunford should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Sunford's export privileges for a period of one year from the date of entry of this Order.

FOURTH, for a period of three years from the date of entry of the Order, Sunford Trading, Ltd., Room 2208, 22/F, 118 Connaught Road West, Hong Kong, China, its successors or assigns, and when acting for or on behalf of Sunford, its officers, representatives, agents, or employees ("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.

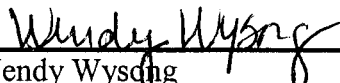
SIXTH, that, to prevent evasion of this Order, BIS, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, may make any person, firm, corporation, or business organization related to Sunford by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services subject to the provisions of this 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 the charging letter, the Settlement Agreement, this Order, and the record of this case as defined by Section 766.20 of the Regulations shall be made available to the public.

NINTH, that the administrative law judge shall be notified that this case is withdrawn from adjudication.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the Federal Register.

  
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Wendy Wysong  
Acting Assistant Secretary of Commerce  
for Export Enforcement

Entered this 18<sup>th</sup> day of August 2005.

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

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Sunford Trading, Ltd.	)	Docket No. 04-BIS-14
Room 2208	)	
22/F No. 118 Connaught Road West	)	
Hong Kong, China	)	
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Respondent.	)	
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Sunford Trading, Ltd. (“Sunford”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup>

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<sup>1</sup> The violations charged occurred during 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2005 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

WHEREAS, BIS has initiated an administrative proceeding against Sunford, pursuant to the Act and the Regulations;

WHEREAS, BIS issued a charging letter to Sunford that alleged that Sunford committed three violations of the Regulations, specifically:

1. *One violation of 15 C.F.R. § 764.2(e) - Ordering, Buying, Financing, and/or Forwarding Items to China with the Knowledge that a Violation of the Regulations Will Occur.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford ordered, bought, financed, and/or forwarded an industrial hot press furnace to the Beijing Research Institute of Materials and Technology (hereinafter, "BRIMT") in China with knowledge that a violation of the Regulations would occur. Specifically, at the time Sunford ordered, bought, financed, and/or forwarded the furnace, it knew or had reason to know that a Department of Commerce license was required for export to BRIMT under Section 744.3 of the Regulations, and that such license would not be obtained.
2. *One violation of 15 C.F.R. § 764.2(d) - Conspiring to Export an Industrial Furnace to China without the Required U.S. Government Authorization.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford conspired or acted in concert with others, known and unknown, to bring about acts that constituted a violation of the Regulations when it agreed to participate in the export of the furnace referenced above to BRIMT in China without the Department of Commerce license required by Section 744.3 of the



Regulations. In furtherance of the conspiracy, Sunford and its co-conspirators agreed to conceal the identity of the actual end-user and of the item being exported in an attempt to circumvent the license requirement described in Section 744.3 of the Regulations.

3. *One violation of 15 C.F.R. § 764.2(b) - Causing an Export to China without the Required Department of Commerce License.* Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford caused the export of the furnace described above to BRIMT in China without the required Department of Commerce license. Specifically, Sunford ordered, bought, financed, and/or forwarded the industrial furnace described above, thereby causing the furnace to be exported to BRIMT in China despite the fact that the Department of Commerce license required by Section 744.3 of the Regulations had not been obtained.

WHEREAS, Sunford has reviewed the 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, Sunford fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Sunford, under the Regulations, in connection with the matters alleged in the charging letter.
2. The following sanctions shall be imposed against Sunford in complete settlement of the violations of the Regulations set forth in the charging letter:
  - a. Sunford shall be assessed a civil penalty in the amount of \$33,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions.
  - b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, License Exception, permission, or privilege granted, or to be granted, to Sunford. Failure to make timely payment of the civil penalty set forth above may result in

the denial of all of Sunford's export or reexport privileges for a period of one year from the date of imposition of the penalty.

- c. For a period of three years from the date of entry of the Order, Sunford, its successors or assigns, and, when acting for or on behalf of Sunford, its officers, representatives, agents, or employees ("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.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Sunford 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 the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) 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 \$33,000 civil penalty, BIS will not initiate any further administrative proceeding against Sunford in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. BIS will make the charging letter, this Agreement, the Order, if entered, and the record of the case as defined in Section 766.20 of the Regulations 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(b) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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 United States 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.

OFFICE OF CHIEF COUNSEL FOR  
INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE

SUNFORD TRADING, LTD.



Craig S. Burkhardt  
Acting Chief Counsel



Dai Sai Hau (Dennis Dai)  
Chief Executive Officer

Date: Aug 17, 2005

Date: 2005. 8. 10.

JUL 14 2004



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Industry and Security  
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Sunford Trading Ltd.  
Room 403 Shun Fat Building  
6-8 Bonham Strand East  
Hong Kong, China

To Chief Executive Officer:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has reason to believe that Sunford Trading Ltd. (hereinafter, "Sunford") has committed three violations of the Export Administration Regulations (the "EAR"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act").<sup>2</sup> Specifically, BIS charges that Sunford committed the following violations:

**Charge 1 15 C.F.R. § 764.2(e) - Ordered, Bought, Financed, and/or Forwarded Items to China with the Knowledge that a Violation of the Regulations Would Occur.**

Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford ordered, bought, financed, and/or forwarded an industrial hot press furnace to the Beijing Research Institute of Materials and Technology (hereinafter, "BRIMT") in China with knowledge that a violation of the Regulations would occur. Specifically, at the time Sunford ordered, bought, financed, and/or forwarded the furnace, it knew or had reason to know that a U.S. Department of Commerce license was required for export to BRIMT under Section 744.3 of the Regulations, and that such license would not be obtained. In so doing, Sunford committed one violation of Section 764.2(e) of the Regulations.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred during 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2004 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401- 2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. 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, 2003 (3 C.F.R., 2003 Comp. 328 (2004)), continues the Regulations in effect under the IEEPA.



**Charge 2 15 C.F.R. § 764.2(d) - Conspiring to Export an Industrial Furnace to China without the Required U.S. Government Authorization.**

Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford conspired or acted in concert with others, known and unknown, to bring about acts that constituted a violation of the Regulations when it agreed to participate in the export of the furnace referenced in Charge One above to BRIMT in China without the U.S. Department of Commerce license required by Section 744.3 of the Regulations. In furtherance of the conspiracy, Sunford and its co-conspirators agreed to conceal the identity of the actual end-user and of the item being exported in an attempt to circumvent the license requirement described in Section 744.3 of the Regulations. In so doing, Sunford committed one violation of Section 764.2(d) of the Regulations.

**Charge 3 15 C.F.R. § 764.2(b) - Causing an Export to China without the Required Department of Commerce License**

Beginning on or about November 23, 1998 and continuing to on or about July 20, 1999, Sunford caused the export of the furnace described in Charge One above to BRIMT in China without the required U.S. Department of Commerce license. Specifically, Sunford ordered, bought, financed, and/or forwarded the industrial furnace referenced in Charge One, thereby causing the furnace to be exported to BRIMT in China despite the fact that the U.S. Department of Commerce license required by Section 744.3 of the Regulations had not been obtained. In so doing, Sunford committed one violation of Section 764.2(b) of the Regulations.

Accordingly, Sunford 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 \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(4) (2004).

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

Sunford 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. (Regulations, Section 766.6). Sunford is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The EAR provides for settlement without a hearing. (Regulations, Section 766.18). Should Sunford have a proposal to settle this case, Sunford or its representative should transmit the offer to me through 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, Sunford'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 Sunford's answer must be served on BIS at the following address:

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



Sunford Trading Ltd.  
Charging Letter  
Page 4

Charles Wall is the attorney representing BIS in this case; any communications that Sunford may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

A handwritten signature in cursive script, appearing to read "Wendy B. Hauser", with a long horizontal flourish extending to the right.

Wendy Hauser  
Acting Director  
Office of Export Enforcement