

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

In the Matter of:

Weiss Envirotronics, Inc.
3881 N. Greenbrooke SE
Grand Rapids, MI 49512

Respondent

ORDER RELATING TO WEISS ENVIROTRONICS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Weiss Envirotronics, Inc., of Grand Rapids, MI (“Envirotronics”), of its intention to initiate an administrative proceeding against Envirotronics 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 Envirotronics that alleges that Envirotronics committed twenty (20) 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 (2016). The violations alleged occurred between 2010 and 2013. The Regulations governing the violation at issue are found in the 2010-2013 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010-2013). The 2016 Regulations govern the procedural aspects of this case.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), 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 1-20 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by
Exporting Without the Required License**

On 20 occasions between on or about March 27, 2010, and on or about September 11, 2013, Envirotronics engaged in conduct prohibited by the Regulations when it exported environmental test chambers, items subject to the Regulations, classified under Export Classification Control Number 9B106.a and controlled for missile technology reasons, and valued at approximately \$3,626,741, from the United States to the People's Republic of China ("PRC") directly or, on four of those occasions, via Hong Kong or Japan, without the Department of Commerce licenses required by Section 742.5 of the Regulations. In doing so, Envirotronics committed 20 violations of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Envirotronics 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, Envirotronics shall be assessed a civil penalty in the amount of \$575,000. The payment of \$175,000 shall be made to the U.S. Department of Commerce in two installments of: \$87,500 not later than 180 days from the date of the Order, and \$87,500 not later than eighteen months from the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$400,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Envirotronics has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$175,000 as set forth above.

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, Envirotronics 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, Envirotronics shall complete two audits of its export controls compliance program. At least one of the audits shall be conducted by an unaffiliated third party consultant with expertise in U.S. export control laws. The audits shall assess the company's compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports, reexports, and transfers that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Chicago Field Office, One Oakbrook Terrace, Suite 804, Oakbrook Terrace, Illinois, 60181, ("BIS Chicago Field Office"). The first audit shall cover the 12-month period beginning on the date of this Order, and the second audit shall cover the 12-month period immediately following the first audit period. Reports on the results of the two audits shall be due to the BIS Chicago Field Office no later than fifteen (15) months and twenty-seven (27) months, respectively, from the date of this Order. Said audits shall be in substantial compliance with the Export Management and Compliance Program (EMCP) sample audit module, and shall include an assessment of Envirotronics's compliance with the Regulations. The EMCP sample audit module is available on the BIS web site at http://www.bis.doc.gov/index.php/forms-documents/doc_download/1256-emcp-guidelines-november-2013. In addition, where


said audits identify actual or potential violations of the Regulations, Envirotronics shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Chicago Field Office.

FOURTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above and the timely completion of the two audits and submission of their results as set forth above are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Envirotronics. Failure to make full and timely payment of the civil penalty or to complete the audits and submit their results as set forth above, may result in the denial of all of Envirotronics's export privileges under the Regulations for one year from the date of the failure to make such payment or complete the audits and submit their results.

FIFTH, Envirotronics 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 Envirotronics'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.

SIXTH, 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 3rd day of June, 2016.

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

In the Matter of:

Weiss Envirotronics, Inc.
3881 N. Greenbrooke SE
Grand Rapids, MI 49512

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Weiss Envirotronics, Inc. of Grand Rapids, MI (“Envirotronics”), 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, Envirotronics filed a voluntary self-disclosure with BIS’s Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The violations alleged occurred between 2010 and 2013. The Regulations governing the violation at issue are found in the 2010-2013 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2010-2013). The 2016 Regulations govern the procedural aspects of this case.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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, 2015 (80 Fed. Reg. 48,233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

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

WHEREAS, BIS has issued a Proposed Charging Letter to Envirotronics that alleges that Envirotronics committed twenty (20) violations of the Regulations, specifically:

Charges 1-20 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Without the Required License

On 20 occasions between on or about March 27, 2010, and on or about September 11, 2013, Envirotronics engaged in conduct prohibited by the Regulations when it exported environmental test chambers, items subject to the Regulations, classified under Export Classification Control Number 9B106.a and controlled for missile technology reasons, and valued at approximately \$3,626,741, from the United States to the People's Republic of China ("PRC") directly or, on four of those occasions, via Hong Kong or Japan, without the Department of Commerce licenses required by Section 742.5 of the Regulations. In doing so, Envirotronics committed 20 violations of Section 764.2(a) of the Regulations.

WHEREAS, Envirotronics 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, Envirotronics 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, Envirotronics enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, Envirotronics neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Envirotronics 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 Envirotronics, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanctions shall be imposed against Envirotronics in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. Envirotronics shall be assessed a civil penalty in the amount of \$575,000. The payment of \$175,000 shall be made to the U.S. Department of Commerce in two installments of: \$87,500 not later than 180 days from the date of the Order, and \$87,500 not later than eighteen months from the date of the Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$400,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Envirotronics has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$175,000 as set forth above.

b. Envirotronics shall complete two audits of its export controls compliance program. At least one of the audits shall be conducted by an

unaffiliated third party consultant with expertise in U.S. export control laws. The audits shall assess the company's compliance with U.S. export control laws (including recordkeeping requirements), with respect to all exports, reexports, and transfers that are subject to the Regulations. The results of the audits, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, Chicago Field Office, One Oakbrook Terrace, Suite 804, Oakbrook Terrace, Illinois, 60181, ("BIS Chicago Field Office"). The first audit shall cover the 12-month period beginning on the date of this Order, and the second audit shall cover the 12-month period immediately following the first audit period. Reports on the results of the two audits shall be due to the BIS Chicago Field Office no later than fifteen (15) months and twenty-seven (27) months, respectively, from the date of this Order. Said audits shall be in substantial compliance with the Export Management and Compliance Program (EMCP) sample audit module, and shall include an assessment of Envirotronics's compliance with the Regulations. The EMCP sample audit module is available on the BIS web site at http://www.bis.doc.gov/index.php/forms-documents/doc_download/1256-emcp-guidelines-november-2013. In addition, where said audits identify actual or potential violations of the Regulations, Envirotronics shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Chicago Field Office.

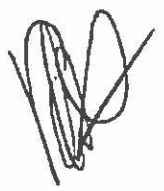
c. The full and timely payment of the civil penalty agreed to in Paragraph 2.a and the timely completion of the audits and submission of the audit results in Paragraph 2.b, are hereby made conditions to the granting, restoration,

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to consist of several overlapping loops and lines.

or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Envirotronics. Failure to make full and timely payment of the civil penalty or to complete and submit the audit results as set forth above, may result in the denial of all of Envirotronics's export privileges under the Regulations for one year from the date of the failure to make such payment or complete and submit their results.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Envirotronics 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. Envirotronics also 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 later of the date Envirotronics pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement or has completed the audits and submitted the results of the audits described in Paragraph 2.b.

4. Envirotronics 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 Envirotronics'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. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a and completion of the two audits and submission of the results of the audits described in Paragraph 2.b, BIS will not initiate any further administrative proceeding against Envirotronics 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/she has authority to enter into this Settlement Agreement and to bind his/her 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

WEISS ENVIROTRONICS, INC.




Robert Levent
CEO

Date: 5/3/2016

Date: May 24, 2016

Reviewed and approved by:



Thomas P. Hogan, Esq.
Rhoades McKee PC
Counsel for Weiss Envirotronics, Inc.

Date: MAY 24, 2016

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Weiss Envirotronics, Inc.
3881 N. Greenbrooke SE
Grand Rapids, MI 49512

Attention: Robert Levert, CEO

Dear Mr. Levert:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Weiss Envirotronics, Inc. (“Envirotronics”), of Grand Rapids, Michigan, has committed 20 violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Envirotronics committed the following violations:

Charges 1-20 15 C.F.R. § 754.2(a) – Engaging in Prohibited Conduct by Exporting Without the Required License

As described in greater detail in the Schedule of Violations attached hereto and incorporated herein, on 20 occasions between on or about March 27, 2010, and on or about September 11, 2013, Envirotronics engaged in conduct prohibited by the Regulations when it exported environmental test chambers, items subject to the Regulations, classified under Export Classification Control Number 9B106.a and controlled for missile technology reasons, and valued at approximately \$3,626,741, from the United States to the People’s Republic of China (“PRC”) directly or, on four of those occasions, via Hong Kong or Japan, without the Department of Commerce licenses required by Section 742.5 of the Regulations. In doing so, Envirotronics committed 20 violations of Section 764.2(a) of the Regulations.

* * * * * * *

Accordingly, Envirotronics is hereby notified that an administrative proceeding is instituted against it pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2016). The violations alleged occurred between 2010 and 2013. The Regulations governing the violations at issue are found in the 2010 through 2013 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2010-13)). The 2016 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>). 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, 2015 (80 Fed. Reg. 48233 (Aug. 11, 2015)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2006 & Supp. IV 2010)).

- 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;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

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

Envirotronics is further notified that it is entitled to an agency hearing on the record if Envirotronics files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Envirotronics 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 Envirotronics have a proposal to settle this case, Envirotronics or its representative should transmit it to the attorney representing BIS named below.

Envirotronics is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Envirotronics 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, Envirotronics' answer must be filed in accordance with the instructions set forth 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 *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

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

Adrienne Frazier is the attorney representing BIS in this case; any communications that Envirotronics may wish to have concerning this matter should occur through her. Ms. Frazier may be contacted via email at afrazier@doc.gov or by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement

Weiss Envirotronics, Inc.
Schedule of Violations

Charge No.	Export Date	Item	ECCN	Value	Destination
1	3/27/2010	Environmental test chamber	9B106.a	\$113,475	PRC
2	4/15/2010	Environmental test chamber	9B106.a	\$85,976	PRC
3	5/27/2010	Environmental test chamber	9B106.a	\$204,180	PRC
4	6/9/2010	Environmental test chamber	9B106.a	\$80,000	PRC
5	11/27/2010	Environmental test chamber	9B106.a	\$170,270	PRC
6	12/30/2010	Environmental test chamber	9B106.a	\$107,000	PRC via Hong Kong
7	1/6/2011	Environmental test chamber	9B106.a	\$122,000	PRC
8	3/10/2011	Environmental test chamber	9B106.a	\$124,975	PRC via Hong Kong
9	4/28/2011	Environmental test chamber	9B106.a	\$176,000	PRC
10	12/5/2011	Environmental test chamber	9B106.a	\$267,030	PRC via Hong Kong
11	12/11/2011	Environmental test chamber	9B106.a	\$282,975	PRC via Hong Kong
12	3/15/2012	Environmental test chamber	9B106.a	\$107,900	PRC
13	6/3/2012	Environmental test chamber	9B106.a	\$511,135	PRC
14	6/24/2012	Environmental test chamber	9B106.a	\$202,900	PRC
15	8/23/2012	Environmental test chamber	9B106.a	\$122,500	PRC
16	11/18/2012	Environmental test chamber	9B106.a	\$157,000	PRC
17	12/13/2012	Environmental test chamber	9B106.a	\$225,000	PRC
18	4/10/2013	Environmental test chamber	9B106.a	\$193,000	PRC
19	6/19/2013	Environmental test chamber	9B106.a	\$305,000	PRC
20	9/11/2013	Environmental test chamber	9B106.a	\$68,425	PRC via Japan
				<i>Total: \$3,626,741</i>	