

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

In the Matter of:

Aeronet Inc.
42 Corporate Park, Suite 100
Irvine, CA 92606

Respondent

ORDER RELATING TO
AERONET INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Aeronet Inc., of Irvine, California, (“Aeronet”), of its intention to initiate an administrative proceeding against Aeronet 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 Aeronet that alleges that Aeronet committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a Denial Order

On or about February 1, 2009, Aeronet took an action prohibited by a BIS denial order. Specifically, Aeronet, acting as a freight forwarder, took action to facilitate the acquisition by Denied Person Mahan Airways of the possession or control of

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2009)). The 2013 Regulations set forth the procedures that currently apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

approximately 2,300 computer motherboards, items subject to the Regulations, designated as EAR99³ and valued at approximately \$130,000, which were being shipped to Mahan Airways in the United Arab Emirates ("UAE"). Aeronet forwarded these items to Mahan Airways, which was named as a Denied Person in a temporary denial order ("TDO") issued by BIS effective on March 21, 2008, and subsequently renewed by BIS and in force and effect at all pertinent times hereto.⁴ Under the TDO, all persons, including Aeronet, were prohibited from taking any action "that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States. . . ." Aeronet forwarded the computer motherboards from the United States to Mahan in the UAE. In so doing, Aeronet committed one violation of Section 764.2(k) of the Regulations.

WHEREAS, BIS and Aeronet 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, Aeronet shall be assessed a civil penalty in the amount of \$27,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

SECOND, 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, Aeronet will be assessed, in addition to the full amount of the

³ EAR99 is the designation for items subject to the Regulations but not included on the Commerce Control List. See 15 C.F.R. § 774.1.

⁴ The initial TDO was issued by BIS on March 17, 2008, and effective upon publication in the Federal Register on March 21, 2008. 73 Fed. Reg. 15130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 Fed. Reg. 57051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently July 31, 2013. 78 Fed. Reg. 48,138 (Aug. 7, 2013).

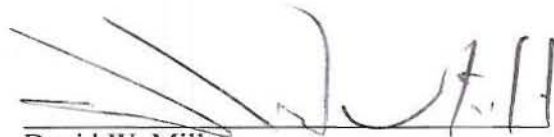
civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the full and timely payment of the civil penalty in accordance with the payment schedule 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 Aeronet. Accordingly, if Aeronet should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an order denying all of Aeronet's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

FOURTH, Aeronet 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 Aeronet's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, 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 9th day of October, 2013.

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

In the Matter of:

Aeronet Inc.
42 Corporate Park, Suite 100
Irvine, CA 92606

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Aeronet Inc., of Irvine, California, (“Aeronet”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

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

WHEREAS, BIS has issued a Proposed Charging Letter to Aeronet that alleges that Aeronet committed one violation of the Regulations, specifically:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2009. The Regulations governing the violation at issue are found in the 2009 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that currently apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a Denial Order

On or about February 1, 2009, Aeronet took an action prohibited by a BIS denial order. Specifically, Aeronet, acting as a freight forwarder, took action to facilitate the acquisition by Denied Person Mahan Airways of the possession or control of approximately 2,300 computer motherboards, items subject to the Regulations, designated as EAR99³ and valued at approximately \$130,000, which were being shipped to Mahan Airways in the United Arab Emirates (“UAE”). Aeronet forwarded these items to Mahan Airways, which was named as a Denied Person in a temporary denial order (“TDO”) issued by BIS effective on March 21, 2008, and subsequently renewed by BIS and in force and effect at all pertinent times hereto.⁴ Under the TDO, all persons, including Aeronet, were prohibited from taking any action “that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States. . . .” Aeronet forwarded the computer motherboards from the United States to Mahan in the UAE. In so doing, Aeronet committed one violation of Section 764.2(k) of the Regulations.

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

³ EAR99 is the designation for items subject to the Regulations but not included on the Commerce Control List. See 15 C.F.R. § 774.1.

⁴ The initial TDO was issued by BIS on March 17, 2008, and effective upon publication in the Federal Register on March 21, 2008. 73 Fed. Reg. 15130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 Fed. Reg. 57051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently July 31, 2013. 78 Fed. Reg. 48,138 (Aug. 7, 2013).

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

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

WHEREAS, Aeronet 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 Aeronet, under the Regulations, in connection with the matter alleged in the Proposed Charging Letter.
2. The following sanction shall be imposed against Aeronet in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Proposed Charging Letter:
 - a. Aeronet shall be assessed a civil penalty in the amount of \$27,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.
 - b. The full and timely payment of the civil penalty agreed to in Paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Aeronet. Failure to make full and timely payment of the civil penalty may result in the denial of all of Aeronet's export privileges under the Regulations for one year from the date of the failure to make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Aeronet 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.

4. Aeronet 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 Aeronet'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, BIS will not initiate any further administrative proceeding against Aeronet in connection with any violation of the Act or the Regulations arising out of the transaction specifically detailed in the Proposed Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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


8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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


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

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

AERONET INC.



Douglas R. Hassebrock
Director of Export Enforcement



Anthony N. Pereira
Chief Executive Officer

Date: 7 OCT 2013

Date: October 7, 2013

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aeronet Inc.
42 Corporate Park, Suite 100
Irvine, CA 92606

Attn: Anthony N. Pereira, Chief Executive Officer

Dear Mr. Pereira:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Aeronet Inc., of Irvine, California, (“Aeronet”) committed one violation of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Aeronet committed the following violation:

Charge 1 15 C.F.R. § 764.2(k) – Acting Contrary to the Terms of a Denial Order

On or about February 1, 2009, Aeronet took an action prohibited by a BIS denial order. Specifically, Aeronet, acting as a freight forwarder, took action to facilitate the acquisition by Denied Person Mahan Airways of the possession or control of approximately 2,300 computer motherboards, items subject to the Regulations, designated as EAR99³ and valued at approximately \$130,000, which were being shipped to Mahan Airways in the United Arab Emirates (“UAE”). Aeronet forwarded these items to Mahan Airways, which was named as a Denied Person in a temporary denial order (“TDO”) issued by BIS effective on March 21, 2008, and subsequently renewed by BIS and in force and effect at all pertinent times hereto.⁴ Under

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the TDO, all persons, including Aeronet, were prohibited from taking any action “that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been . . . exported from the United States. . . .” Aeronet forwarded the computer motherboards from the United States to Mahan in the UAE. In so doing, Aeronet committed one violation of Section 764.2(k) of the Regulations.

* * * * *

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

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Aeronet 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. Aeronet 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 Aeronet have a proposal to settle this case, Aeronet or its representative should transmit it to the attorney representing BIS named below.

Aeronet is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Aeronet may be eligible for assistance from the Office of the National Ombudsman of the

1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently July 31, 2013. 78 Fed. Reg. 48,138 (Aug. 7, 2013).

⁵ International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Aeronet Inc.
Proposed Charging Letter
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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, Aeronet'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 Aeronet's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement