

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[08-BIS-0007]

Action Affecting Export Privileges; Hui-Fen Chen, A.K.A. Angela Chen; In the Matter of: Hui-Fen Chen, a.k.a. Angela Chen, No. 9-1, 29 Lane, Dan Kung Rd., Tamsui, Taipei County, Taiwan; Respondent; Order Relating to Hui-Fen Chen A.K.A. Angela Chen

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has initiated an administrative proceeding against Hui-Fen Chen a.k.a. Angela Chen (hereinafter referred to as "Chen") pursuant to Section 766.3 of the Export Administration Regulations ("Regulations")¹ and Section 13(c) of the Export Administration Act of 1979, as amended ("Act"),² through issuance of a charging letter to Chen that alleged that Chen committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 CFR 764.2(d)—Conspiracy to Export Items From the United States to Taiwan Without the Required License

Beginning in or about 2003 and continuing through on or about July 29, 2006, Chen conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items from the United States to Taiwan without the required U.S. Government authorization. Pursuant to Sections 742.2 or 742.3 of the Regulations, authorization was required from the Department of Commerce before certain chemicals, metals, and electronic components, items subject to the Regulations and classified under Export Control Classification Numbers ("ECCNs") 1C227, 1C299, 1C230, 1C231, 1C234, 1C240, 1C350, and

3A201, could be exported from the United States to Taiwan. In furtherance of the conspiracy, the conspirators, including Chen, participated in a scheme in which a Taiwan company, Chen's employer, requested that an affiliated U.S. company procure specific items from U.S. suppliers and export them to Taiwan. The Taiwan company instructed the affiliated U.S. company not to tell U.S. suppliers that the affiliated U.S. company would export the items. Pursuant to this instruction, the affiliated U.S. company procured the items and exported them to Taiwan without the required license. In so doing, Chen committed one violation of Section 764.2(d) of the Regulations.

Whereas, BIS and Chen 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 for a period of twenty years from the date of entry of this Order, Hui-Fen Chen a.k.a. Angela Chen, No. 901, 29 Lane, Dan Kung Rd., Tamsui, Taipei County, Taiwan, ("Chen"), her representatives, assigns, 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 and listed on the Commerce Control List, set forth in Supplement No. 1 to 15 CFR part 774, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document that involves an item that is subject to the Regulations and listed on the Commerce Control List;

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 and listed on the Commerce Control List, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States

that is subject to the Regulations and listed on the Commerce Control List, or in any other activity subject to the Regulations that involves an item listed on the Commerce Control List.

Second, that no person may, directly or indirectly, do any of the actions described below with respect to an item that is subject to the Regulations and listed on the Commerce Control List that has been, will be, or is intended to be exported or reexported from the United States:

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations and listed on the Commerce Control List;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a 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 a Denied Person of any item subject to the Regulations and listed on the Commerce Control List that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the Regulations and listed on the Commerce Control List 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 and listed on the Commerce Control List that has been or will be exported from the United States and that is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, 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 Chen by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730-774 (2008). The charged violation occurred in 2003 through 2006. The Regulations governing the violation at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2003-2006)). The 2008 Regulations govern the procedural aspects of this case.

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 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 FR 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)).

made subject to the provisions of the Order.

Fourth, that the charging letter, amended charging letter, the Settlement Agreement, and this Order, and the record of the cases as defined by Section 766.20 of the Regulations shall be made available to the public.

Fifth, that the Administrative Law Judge shall be notified that this case is withdrawn from adjudication.

Sixth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: Entered this 26th day of January, 2009.

Kevin Delli-Colli,

Acting Assistant Secretary for Export Enforcement.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[08-BIS-0008]

Action Affecting Export Privileges; Well Being Enterprise Co., Ltd.; In the Matter of: Well Being Enterprise Co., Ltd. 9 F, No. 170 Min Chuan E. Rd., Sec. 3 Taipei 10542 Taiwan Respondent; Order Relating to Well Being Enterprise Co., Ltd.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has initiated an administrative proceeding against Well Being Enterprise Co., Ltd. (hereinafter referred to as “Well Being”) pursuant to Section 766.3 of the Export Administration Regulations (“Regulations”)¹ and Section 13(c) of the Export Administration Act of 1979, as amended (“Act”),² through issuance of a charging letter to Well Being that alleged that

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2008). The charged violations occurred in 2003 through 2006. The Regulations governing the violations at issue are found in the 2003 through 2006 versions of the Code of Federal Regulations (15 CFR parts 730–774 (2003–2006)). The 2008 Regulations govern the procedural aspects of this case.

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 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 FR 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)).

Well Being committed 25 violations of the Regulations. Specifically, the charges are:

Charge 1 15 CFR 764.2(d)—Conspiracy to Export Items from the United States to Taiwan without the Required License

Beginning in or about 2003 and continuing through on or about July 29, 2006, Well Being conspired and acted in concert with others, known and unknown, to violate the Regulations and to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items from the United States to Taiwan without the required U.S. Government authorization. Pursuant to Sections 742.2 or 742.3 of the Regulations, authorization was required from the Department of Commerce before certain chemicals, metals, and electronic components, items subject to the Regulations and classified under Export Control Classification Numbers (“ECCNs”) 1C227, 1C299, 1C231, 1C234, 1C240, and 1C350, could be exported from the United States to Taiwan. In furtherance of the conspiracy, the conspirators, including Well Being, participated in a scheme in which Well Being requested that an affiliated U.S. company procure specific items from U.S. suppliers and export them to Taiwan. Well Being instructed the affiliated U.S. company not to tell U.S. suppliers that the affiliated U.S. company would export the items. Pursuant to this instruction, the affiliated U.S. company procured the items and exported them to Taiwan without the required license. In so doing, Well Being committed one violation of Section 764.2(d) of the Regulations.

Charge 2 15 CFR 764.2(h)—Evasion

On or about October 20, 2005, Well Being engaged in a transaction or took other action with intent to evade the provisions of the Regulations. Specifically, Well-Being provided electronic instruction to an affiliated U.S. company stating that the affiliated U.S. company should not use its correct name when placing an order for nickel powder with a specific U.S. supplier because Well Being thought that the U.S. supplier knew that there was a relationship between Well Being and the affiliated U.S. company. Well Being conveyed this instruction to the affiliated U.S. company for the purpose of obtaining the nickel powder, which was subject to the Regulations and classified under ECCN 1C240, without obtaining the required U.S. government authorization. In so doing, Well Being

committed one violation of Section 764.2(h) of the Regulations.

Charges 3–24 15 CFR 764.2(b): Commanding and/or Inducing an Act Prohibited by the Regulations

On 22 occasions between on or about August 13, 2003 and on or about May 13, 2006, Well Being commanded or induced the doing of an act prohibited by the Regulations by instructing an affiliated U.S. company to procure and export to Taiwan certain chemicals, metals, and electronic components, items subject to the Regulations and classified under ECCNs 1C227, 1C299, 1C231, 1C234, and 1C240, without the Department of Commerce licenses required by Section 742.3 of the Regulations. Specifically, Well Being instructed an affiliated U.S. company, whose sole officer was also the president of Well Being, to procure items for Well Being and export them to Well Being in Taiwan. In so doing, Well Being committed 22 violations of Section 764.2(b) of the Regulations.

Charge 25 15 CFR 764.2(b): Commanding and/or Inducing an Act Prohibited by the Regulations

On one occasion on or about April 15, 2006, Well Being commanded or induced the doing of an act prohibited by the Regulations by instructing an affiliated U.S. company to procure and export to Taiwan sodium fluoride, an item subject to the Regulations and classified under ECCN 1C350, without the Department of Commerce license required by Section 742.2 of the Regulations. Specifically, Well Being instructed an affiliated U.S. company, whose sole officer was also the president of Well Being, to procure sodium fluoride for Well Being and export it to Well Being in Taiwan. In so doing, Well Being committed one violation of Section 764.2(b) of the Regulations.

Whereas, BIS and Well Being 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 \$250,000 is assessed against Well Being. Well Being shall pay \$30,000 to the U.S. Department of Commerce within 30 days of from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$220,000 shall be suspended for a