

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

In the Matter of:

Western Advanced Engineering Company
955 North Elm
Orange, CA 92867

10-BIS-007

and

P.O. Box 17753
Anaheim, CA 92807

C.A. Litzler Co., Inc.
4800 West 160th Street
Cleveland, OH 44135-2689

Respondents

ORDER RELATING TO
C.A. LITZLER CO., INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), initiated this administrative proceeding 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

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 2005. The Regulations governing the violation at issue are found in the 2005 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).

WHEREAS, BIS issued a Charging Letter to Western Advanced Engineering Company (“WAECO”) on September 14, 2010;

WHEREAS, BIS subsequently moved on June 14, 2013, to amend the Charging Letter to add Litzler as a respondent to this proceeding as a successor or successor-in-interest to WAECO under the “substantial continuity” test or standard adopted by BIS in *In the Matter of Sigma-Aldrich Business Holdings, Inc., Sigma-Aldrich Corporation, and Sigma Aldrich Research Biochemicals, Inc.*, Cases 01-BXA-06, 01-BXA-07, and 01-BXA-11, Order Denying Motion for Summary Decision, dated August 29, 2002;

WHEREAS, on August 26, 2013, the administrative law judge granted BIS’s motion to amend the Charging Letter under the “substantial continuity” standard, finding, inter alia, that Litzler had acquired at least a substantial portion of WAECO’s assets, as well as the services of key personnel, and that BIS had provided information showing that WAECO has ceased operating even though it has continued to exist as a corporate entity following the acquisition;

WHEREAS, the Charging Letter, as amended (“Amended Charging Letter”), alleges that Litzler is liable for one violation of the Regulations, specifically:

Charge 1 **15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct by Exporting a Prepreg Machine to Spain Without the Required License**

On or about May 17, 2005, Litzler/WAECO engaged in conduct prohibited by the Regulations by exporting a 24” Hot Melt Prepreg Machine for Uni-directional Tape, an item subject to the Regulations, classified under Export Control Classification Number 1B001.e, and valued at approximately \$825,215, from the United States to Spain without the Department of Commerce license required by Section 742.5 (Missile Technology) of the Regulations. In so doing, Litzler/WAECO committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Litzler 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;³ and

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

IT IS THEREFORE ORDERED:

FIRST, Litzler shall be assessed a civil penalty in the amount of \$45,000, 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, Litzler 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.

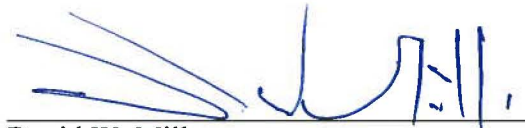
THIRD, that the full and timely payment of the civil penalty is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Litzler. Accordingly, if Litzler should fail to pay the civil penalty in a full and timely manner the undersigned may issue an order denying all of Litzler's export privileges under the Regulations for a period of one year from the date of failure to make such payment.

³ Neither WAECO nor any of its current or former owners, directors, officers, employees, or agents is a party to the Settlement Agreement. Neither the Settlement Agreement nor this Order benefits or inures to the benefit of WAECO or any of its current or former owners, directors, officers, employees, or agents.

FOURTH, Litzler shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Amended Charging Letter, the Settlement Agreement, or the Order. The foregoing does not affect Litzler'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 Amended 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 as related to Litzler, is effective immediately.⁴



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 24th day of April, 2014.

⁴ This Order does not resolve this matter as to WAECO, which remains pending before the administrative law judge.

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C.A. Litzler Co., Inc.

4800 West 160th Street
Cleveland, OH 44135-2689

Respondents

10-BIS-0007

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between C.A. Litzler Co., Inc. (“Litzler”), of Cleveland, Ohio, and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

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 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that 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

WHEREAS, BIS initiated and continues this administrative proceeding pursuant to the Act and the Regulations;

WHEREAS, BIS issued a Charging Letter to Western Advanced Engineering Company (“WAECO”) on September 14, 2010;

WHEREAS, BIS subsequently moved on June 14, 2013, to amend the Charging Letter to add Litzler as a respondent to this proceeding as a successor or successor-in-interest to WAECO under the “substantial continuity” test or standard adopted by BIS in *In the Matter of Sigma-Aldrich Business Holdings, Inc., Sigma-Aldrich Corporation, and Sigma Aldrich Research Biochemicals, Inc.*, Cases 01-BXA-06, 01-BXA-07, and 01-BXA-11, Order Denying Motion for Summary Decision, dated August 29, 2002;

WHEREAS, on August 26, 2013, the administrative law judge granted BIS’s motion to amend the Charging Letter under the “substantial continuity” standard, finding, inter alia, that Litzler had acquired at least a substantial portion of WAECO’s assets, as well as the services of key personnel, and that BIS had provided information showing that WAECO has ceased operating even though it has continued to exist as a corporate entity following the acquisition;

WHEREAS, the Charging Letter, as amended (“Amended Charging Letter”),³ alleges that Litzler is liable for one violation of the Regulations, specifically:

continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

³ The Amended Charging Letter alleges that Litzler and WAECO are each liable for the violation. WAECO has continued to exist subsequent to Litzler’s asset purchase and is not a party to this Agreement.

**Charge 1 15 C.F.R. § 764.2(a): Engaging in Prohibited Conduct by
Exporting a Prepreg Machine to Spain Without the Required
License**

On or about May 17, 2005, Litzler/WAECO engaged in conduct prohibited by the Regulations by exporting a 24" Hot Melt Prepreg Machine for Uni-directional Tape, an item subject to the Regulations, classified under Export Control Classification Number 1B001.e, and valued at approximately \$825,215, from the United States to Spain without the Department of Commerce license required by Section 742.5 (Missile Technology) of the Regulations. In so doing, Litzler/WAECO committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, Litzler has reviewed the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

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

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

WHEREAS, Litzler neither admits nor denies the allegation contained in the Amended Charging Letter; and

WHEREAS, Litzler 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 Litzler, under the Regulations, in connection with the matters alleged in the Amended Charging Letter.

2. The following sanction shall be imposed against Litzler in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the Amended Charging Letter:

a. Litzler shall be assessed a civil penalty in the amount of \$45,000, 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 Litzler. Failure to make full and timely payment of the civil penalty may result in the denial of all of Litzler'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, Litzler 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. Litzler 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 transaction identified in the Amended 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 date Litzler pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Litzler shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegation in the Amended Charging Letter or the Order. The foregoing does not affect Litzler's testimonial obligations in any proceeding, nor does it affect their 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 Litzler in connection with any violation of the Act or the Regulations arising out of the transaction specifically detailed in the Amended Charging Letter. WAECO and its current or former owners, directors, officers, agents, and employees are specifically excluded from the scope of this provision.

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 pending or 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.

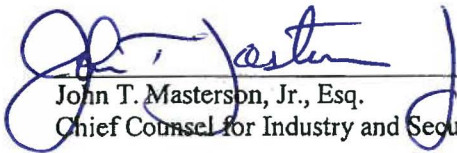
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Nothing in this Agreement is intended to benefit or shall inure to the benefit of WAECO or any of its current or former owners, directors, officers, employees, or agents.

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

11. 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


John T. Masterson, Jr., Esq.
Chief Counsel for Industry and Security

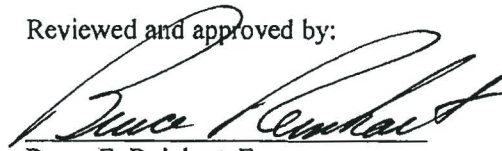
Date: 4/18/14

C.A. LITZLER CO., INC.


Matthew Litzler, President

Date: 4/3/14

Reviewed and approved by:


Bruce E. Reinhart, Esq.
McDonald Hopkins LLC
Counsel for C.A. Litzler Co., Inc.

Date: 4/14/14

AMENDED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Western Advanced Engineering Company

955 North Elm
Orange, CA 92867

and

P.O. Box 17753
Anaheim, CA 92807

Attention: Stephan Velleman, President

C.A. Litzler Co., Inc.

4800 West 160th Street
Cleveland, OH 44135-2689

Attention: Matthew Litzler, President

Dear Messrs. Velleman and Litzler,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Western Advanced Engineering Company, of Orange, California (“WAECO”), and C.A. Litzler Co., Inc., of Cleveland, Ohio, as successor to WAECO (collectively “Litzler/WAECO”), are liable, jointly and severally, for one violation 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 Litzler/WAECO committed the following violation:

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 2005. The Regulations governing the violation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2013 Regulations set forth the procedures that 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 13,222 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. 49,107 (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(a): Engaging in Prohibited Conduct by Exporting a Prepreg Machine to Spain Without the Required License

On or about May 17, 2005,³ Litzler/WAECO engaged in conduct prohibited by the Regulations by exporting a 24” Hot Melt Prepreg Machine for Uni-directional Tape, an item subject to the Regulations, classified under Export Control Classification Number 1B001.e, and valued at approximately \$825,215, from the United States to Spain without the Department of Commerce license required by Section 742.5 (Missile Technology) of the Regulations. In so doing, Litzler/WAECO committed one violation of Section 764.2(a) of the Regulations.

* * * * *

Accordingly, Litzler and WAECO are hereby notified that an administrative proceeding is instituted against them 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, or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Litzler and/or WAECO fails to answer the charges contained in this letter within 30 days after first 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 Litzler and/or WAECO defaults, the Administrative Law Judge may find the charge alleged in this letter is true without a hearing or further notice to that respondent. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charge in this letter.

Litzler and WAECO are further notified that they are entitled to an agency hearing on the record if Litzler and/or WAECO files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Litzler and WAECO are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent them. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

³ By agreement between BIS and Litzler/WAECO, the statute of limitations was extended until September 16, 2010, with respect to any violation of the Act or Regulation allegedly committed by Litzler/WAECO on or about May 17, 2005, in connection with this matter.

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

Litzler/WAECO
Charging Letter
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The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should Litzler and/or WAECO have a proposal to settle this case, Litzler and/or WAECO or their representatives should transmit it to the attorney representing BIS named below. Litzler and WAECO are additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, Litzler and/or WAEC 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, any 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 any answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Gregory Michelsen, Esq.
Room H-3839
United States Department of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Gregory Michelsen is the attorney representing BIS in this case; any communications that Litzler and/or WAECO may wish to have concerning this matter should occur through him. Mr. Michelsen may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement