

DRAFT CHARGING LETTER

U.S. Department of State  
Bureau of Political-Military Affairs  
Directorate of Defense Trade Controls  
Washington, D.C. 20520-0112

Mr. Israel Adan  
President and Chief Executive Officer  
Orbit/FR, Inc.  
506 Prudential Road  
Horsham, PA 19044

Dear Mr. Adan:

The Department of State (“Department”) charges that Orbit/FR, Inc. violated Section 38 of the Arms Export Control Act (“Act”) (22 U.S.C. 2778) and its implementing regulations, the International Traffic in Arms Regulations (“Regulations”) (22 CFR Parts 120-130), in connection with the unauthorized export of a defense article and furnishing a defense service to the Peoples Republic of China (“China”). Four (4) violations are charged at this time. The Department reserves the right to amend this charging letter, which may include specifying additional violations (see Section 128.3 of the Regulations).

PART I – RELEVANT FACTS

(1) Orbit/FR, Inc. (“Orbit/FR”) is a corporation organized under the laws of the State of Delaware and is a U.S. person within the meaning of Section 120.15 of the Regulations.

(2) Orbit/FR is engaged in the business of manufacturing defense articles and formerly was engaged in the business of exporting defense articles and defense services. Orbit/FR is registered with the Department of State pursuant to Section 38 of the Act and Section 122.1 of the Regulations.

(3) Defense articles manufactured by Orbit/FR include a missile and military aircraft radome measurement system, known as the AL-8098 and also known as the AL-8099, that is covered by Category XI of the United States Munitions List. Orbit/FR also manufactures an antenna measurement system, known as the AL-2000, which is not a defense article.

(4) From in or about September 1995 to in or about November 1997, Orbit/FR agreed to sell to Chinese military-industrial entities, which are foreign persons under Section 120.16 of the Regulations, the radome measurement system and the antenna measurement system described in paragraph 3 and subsequently exported said systems to China.

(5) On March 2, 2000, pursuant to a plea agreement, Orbit/FR was convicted of two counts of violating the Act and the Regulations in connection with unauthorized export activities with China. The activities involved the export of the radome measurement system and furnishing defense services relating to the antenna measurement system. As a result of that conviction, Orbit/FR has been debarred pursuant to Section 127.7 of the Regulations and it and its affiliates have been subject to the Department's policy to deny licenses in which Orbit/FR or any of its affiliates are involved.

## PART II – REGULATORY REQUIREMENTS

The following provisions of the Regulations adopted are relevant to the charges:

(6) Part 123 of the Regulations requires persons intending to export defense articles, including technical data, to obtain a license or other approval from the Directorate of Defense Trade Controls (“DDTC”)<sup>1</sup>.

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<sup>1</sup> In February 2003, the former Office of Defense Trade Controls was realigned into the Directorate of Defense Trade Controls. References to the Directorate of Defense Trade Controls will be deemed to be to the Office of Defense Trade Controls wherever applicable.

- (7) Part 124 of the Regulations requires persons intending to provide defense services to obtain the approval of the DDTC.
- (8) Section 126.1(a) of the Regulations provides that it is the policy of the United States to deny licenses or other approvals for exports of defense articles and defense services to China and countries to which the United States maintains an arms embargo.
- (9) Section 126.1(e) of the Regulations provides that no sale or transfer or proposal to sell or transfer any defense article or technical data subject to the Regulations may be made to any country referred to in Section 126.1, including China, or to any person acting on its behalf without first obtaining the written approval of the DDTC. Any person who knows or has reason to know of such a transfer must immediately inform the DDTC.
- (10) Section 127.1(a)(1) of the Regulations provides that it is unlawful to export or attempt to export from the United States any defense article or technical data or to furnish any defense service for which a license or written approval is required without first obtaining the required license or written approval from the DDTC.

### PART III – THE CHARGES

As described more fully in the paragraphs 1 through 10, the following violations are charged to Respondent Orbit/FR:

#### Charges 1-2

(11) From between in or about September 1997 to in or about May 1998, Respondent violated Section 38 of the Act and Sections 127.1(a)(1) and 126.1(e) of the Regulations by exporting components for a defense article to China, specifically including software and equipment for the radome measurement system referred to above, without first obtaining the required approvals from the DDTC.

Charges 3-4

(12) From between on or about January 5, 1998 to on or about January 16, 1998, Respondent violated Section 38 of the Act and Section 127.1(a)(1) and 126.1(e) of the Regulations by providing China with a defense service, specifically by modifying and attempting to modify the software for its antenna measure system AL-2000 so that the system would have sufficient accuracy to measure an antenna on a Patriot-type missile system, without having first obtained the required approvals from the DDTC.

PART IV – ADMINISTRATIVE PROCEEDINGS

(13) Pursuant to Part 128 of the Regulations, administrative proceedings are instituted against Respondent Orbit/FR for the purpose of obtaining an Order imposing civil administrative sanctions that may include the imposition of debarment and/or civil penalties. The Assistant Secretary for Political-Military Affairs shall determine the appropriate period of debarment, which shall generally be for a period of three years in accordance with Section 127.7 of the Regulations, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$500,000 per violation, may be imposed in accordance with Section 38(e) of the Act and Section 127.10 of the Regulations. The Department's decision to pursue one type of enforcement action does not preclude it or any other department or agency of the United States from pursuing another type of enforcement action.

Sincerely,

David C. Trimble  
Director  
Office of Defense Trade Controls Compliance