



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**  
Washington, D.C. 20230

REGISTERED MAIL - RETURN RECEIPT REQUESTED

July 3, 2003

Polytrust Technologies (S) Pte Ltd  
1, North Bridge Road Hex #22-03  
High Street Centre  
Singapore 179094  
Telephone: (65) 3384545

*Attention: Mr. Fred Phua*  
*Managing Director*

Dear Mr. Phua:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Polytrust Technologies (S) Pte Ltd ("Polytrust") and its Managing Director, Mr. Fred Phua ("Phua"), each have committed three violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act"). Specifically, BIS charges that Polytrust and Phua (collectively, "Respondents") each committed the following violations:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The current version of the Regulations governs the procedural aspects of this case. The violations charged occurred during 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The Regulations were issued pursuant to the Export Administration Act of 1979 ("Act"), 50 U.S.C. app. §§ 2401-2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was issued on August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000) (IEEPA)). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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)), as extended by the Notice of August 14, 2002 (3 C.F.R., 2002 Comp. 306 (2003)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.



Section 742.7(a) of the Regulations, Polytrust and Phua each committed one violation of Section 764.2(b) of the Regulations.

Accordingly, Respondents are hereby notified that an administrative proceeding is instituted against each of 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 \$11,000 per violation;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If a Respondent 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. (Regulations, Sections 766.6 and 766.7). If a Respondent defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to that Respondent. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Respondents are further notified that they are entitled to an agency hearing on the record if they file a written demand for one with their answer. (Regulations, Section 766.6.) Respondents also are entitled to be represented by counsel or other authorized representative who has power of attorney to represent them. (Regulations, Sections 766.3(a) and 766.4.)

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18.) Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, a Respondent's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

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<sup>3</sup> See the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. § 2461, note (2000)) and 15 C.F.R. § 6.4(a)(2).

Polytrust Technologies  
Charging Letter  
Page 4

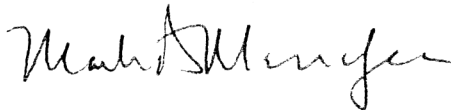
U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

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

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

Philip D. Golrick is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,



Mark D. Menefee  
Director  
Office of Export Enforcement

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

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In the Matter of: )  
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Polytrust Technologies (S) Pte. Ltd., ) 03-BIS-09  
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and )  
 )  
Phua Tin Mong, also known as Fred Phua, )  
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Respondents. )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondents, Polytrust Technologies (S) Pte. Ltd. (“Polytrust”) and Phua Tin Mong, also known as Fred Phua, Managing Director of Polytrust (“Phua”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”).<sup>2</sup>

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<sup>1</sup> The violations charged occurred in 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized

(continued...)

WHEREAS, BIS has initiated an administrative proceeding against Respondents, in docket number 03-BIS-09, pursuant to the Act and the Regulations;

WHEREAS, Respondents have received notice of the issuance of the charging letter, pursuant to Section 766.3 of the Regulations;

WHEREAS, Respondents have reviewed the charging letter and are aware of the allegations made against them and the administrative sanctions which could be imposed against them if the allegations are found to be true;

WHEREAS, Respondents fully understand the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

WHEREAS, Respondents enter into this Agreement voluntarily and with full knowledge of their rights;

WHEREAS, Respondents state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, Respondents neither admit nor deny the allegations contained in the charging letter;

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(...continued)

and it remained in effect through August 20, 2001. 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)), as extended by the Notice of August 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), has continued the Regulations in effect under IEFPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

WHEREAS, Respondents wish to settle and dispose of all matters alleged in the charging letter by entering into this Agreement; and

WHEREAS, Respondents agree to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Respondents, under the Regulations, in connection with the matters alleged in the charging letter in docket number 03-BIS-09.

2. BIS and Respondents shall settle the administrative case pending against Respondents in docket number 03-BIS-09 with civil penalties based upon the following charges:

1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Violation of Condition of Export License:* On or about October 13, 1999, Polytrust and Phua engaged in conduct prohibited by a Department of Commerce license issued under the Regulations by transferring or causing to be transferred five optical gun sighting devices to the Evergreen Group for private use. These gun sighting devices were items subject to the Regulations and described in Export Control Classification Number (“ECCN”) 0A987, and had been exported from the United States under export license number D266309. That export license contained the condition: “No resale or transfer outside of the Government/Police.” By transferring or causing the transfer of these items to the Evergreen Group, Polytrust and Phua engaged in conduct prohibited by or

contrary to a license issued under the Regulations, thereby each committing one violation of Section 764.2(a) of the Regulations.

2. *Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation* - When they transferred or caused the transfer of the items described the charge above to the Evergreen Group on or about October 13, 1999, Polytrust and Phua had knowledge of the above-described license condition. By transferring or causing the transfer of these items with knowledge that a violation of export license number D266309 had occurred, was about to occur, or was intended to occur in connection with these items, Polytrust and Phua each committed one violation of Section 764.2(e) of the Regulations.

3. The following sanction shall be imposed against Respondents in complete settlement of the violations of the Regulations set forth in the charging letter:

- a. Polytrust shall be assessed a civil penalty in the amount of \$5,000.00 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The 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 Respondents. Failure to make timely payment of the civil penalty set forth above

shall result in the denial of all of Respondents' export privileges for a period of one year from the date of imposition of the penalty.

4. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Respondents hereby waive all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

5. Upon entry of the Order and timely payment of the \$ 5,000.00 civil penalty, BIS will not initiate any further administrative proceeding against Respondents in connection with any violation of the Act or the Regulations arising out of the transaction identified in the charging letter.

6. BIS will make the charging letter, this Agreement, and the Order, when entered, in addition to the record of the case, available to the public.

7. 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 subsequent administrative or judicial proceeding.



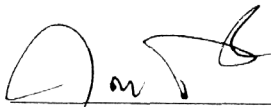
8. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

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

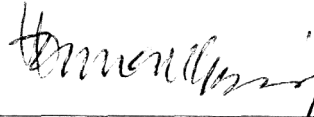
10. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

POLYTRUST TECHNOLOGIES (S) PTE. LTD.  
and PHUA TIN MONG



Jon A. Dyck  
Chief Counsel, Office of  
Chief Counsel for Industry and Security



Phua Tin Mong, as Managing Director  
of Polytrust Technologies (S) Pte. Ltd.  
and in his individual capacity

Date: 02/09/04

Date: 4th February 2004

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

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In the Matter of: )  
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Polytrust Technologies (S) Pte. Ltd., ) 03-BIS-09  
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and )  
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Phua Tin Mong, also known as Fred Phua, )  
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Respondents. )  
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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), having initiated an administrative proceeding against Respondents, Polytrust Technologies (S) Pte. Ltd. (“Polytrust”) and Phua Tin Mong, also known as Fred Phua, Managing Director of Polytrust (“Phua”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> by issuing a charging letter

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<sup>1</sup> The violations charged occurred in 1999. The Regulations governing the violations at issue are found in the 1999 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1999)). The 2003 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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)), as extended by the Notice of August 7, 2003 (68 *Fed. Reg.* 47833, August

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that alleged that Respondents violated the Regulations. BIS and Respondents have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they have agreed to settle the administrative case pending against Respondents in docket number 03-BIS-09 with a civil penalty based upon the following charges:

1. *One Violation of 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct - Violation of Condition of Export License:* On or about October 13, 1999, Polytrust and Phua engaged in conduct prohibited by a Department of Commerce license issued under the Regulations by transferring or causing to be transferred five optical gun sighting devices to the Evergreen Group for private use. These gun sighting devices were items subject to the Regulations and described in Export Control Classification Number (“ECCN”) 0A987, and had been exported from the United States under export license number D266309. That export license contained the condition: “No resale or transfer outside of the Government/Police.” By transferring or causing the transfer of these items to the Evergreen Group, Polytrust and Phua engaged in conduct prohibited by or contrary to a license issued under the Regulations, thereby each committing one violation of Section 764.2(a) of the Regulations.
2. *Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation -* When they transferred or caused the transfer of the items described in the charge above

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11, 2003), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

to the Evergreen Group on or about October 13, 1999, Polytrust and Phua had knowledge of the above-described license condition. By transferring or causing the transfer of these items with knowledge that a violation of export license number D266309 had occurred, was about to occur, or was intended to occur in connection with these items, Polytrust and Phua each committed one violation of Section 764.2(e) of the Regulations.

BIS and Respondents having 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 the terms and conditions of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that Polytrust shall pay a civil penalty of \$5,000 to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Polytrust 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 timely payment of the civil penalty 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 Respondents. Accordingly, if Polytrust should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Respondents' export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the charging letter, the Settlement Agreement, and this Order, in addition to the record of the case, shall be made available to the public.

FIFTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

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

  
Julie L. Myers  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 23<sup>rd</sup> day of February 2004.