

ENFORCEMENT INFORMATION FOR JANUARY 31, 2019

Information concerning the civil penalties process can be found in the Office of Foreign Assets Control (OFAC) regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's website at www.treasury.gov/ofac/enforcement.

ENTITIES – 31 CFR 501.805(d)(1)(i)

e.l.f. Cosmetics, Inc. Settles Potential Civil Liability for Apparent Violations of the North Korea Sanctions Regulations. e.l.f. Cosmetics, Inc. (“ELF”), a cosmetics company headquartered in Oakland, California, has agreed to pay \$996,080 to settle its potential civil liability for 156 apparent violations of the North Korea Sanctions Regulations, 31 C.F.R. part 510 (NKSR). Specifically, ELF appears to have violated § 510.201(c)¹ of the NKSR by importing 156 shipments of false eyelash kits from two suppliers located in the People’s Republic of China that contained materials sourced by these suppliers from the Democratic People’s Republic of Korea (DPRK). ELF imported the false eyelash kits from on or about April 1, 2012 to on or about January 28, 2017. The total value of the shipments equaled \$4,427,019.26.

Throughout the time period in which the apparent violations occurred, ELF’s OFAC compliance program was either non-existent or inadequate. The company’s production review efforts focused on quality assurance issues pertaining to the production process, raw materials, and end-products of the goods it purchased and/or imported. Until January 2017, ELF’s compliance program and its supplier audits failed to discover that approximately 80 percent of the false eyelash kits supplied by two of ELF’s China-based suppliers contained materials from the DPRK.

OFAC determined that ELF voluntarily self-disclosed the apparent violations to OFAC, and that the apparent violations constitute a non-egregious case. The statutory maximum civil monetary penalty amount for the apparent violations was \$40,833,633, and the base civil monetary penalty amount for the apparent violations was \$2,213,510.

The settlement amount reflects OFAC’s consideration of the following facts and circumstances, pursuant to the General Factors under OFAC’s Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A.

OFAC found the following to be aggravating factors in this case: (1) the apparent violations may have resulted in U.S.-origin funds coming under the control of the DPRK government, in direct conflict with the program objectives of the NKSR; (2) ELF is a large and commercially sophisticated company that engages in a substantial volume of international trade; and (3) ELF’s OFAC compliance program was either non-existent or inadequate throughout the time period in

¹ This reflects the NKSR as written during the time period of the transactions (2012-2017). OFAC amended and reissued the NKSR effective March 5, 2018. Please see www.treasury.gov/ofac for the most up-to-date regulations.

which the apparent violations occurred, and appears not to have exercised sufficient supply chain due diligence while sourcing products from a region that poses a high risk to the effectiveness of the NKSR.

OFAC found the following to be mitigating factors in this case: (1) ELF's personnel do not appear to have had actual knowledge of the conduct that led to the apparent violations in this investigation; (2) ELF has not received a Penalty Notice or Finding of Violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the apparent violations; (3) the apparent violations do not appear to constitute a significant part of ELF's business activities; and (4) ELF cooperated with OFAC by immediately disclosing the apparent violations, signing a tolling agreement, and submitting a complete and satisfactory response to OFAC's request for additional information.

ELF stated the company has terminated the conduct which led to the apparent violations and has taken the following steps to minimize the risk of recurrence of similar conduct in the future:

- Implemented supply chain audits that verify the country of origin of goods and services used in ELF's products;
- Adopted new procedures to require suppliers to sign certificates of compliance stating that they will comply with all U.S. export controls and trade sanctions;
- Conducted an enhanced supplier audit that included verification of payment information related to production materials and the review of supplier bank statements;
- Engaged outside counsel to provide additional training for key employees in the United States and in China regarding U.S. sanctions regulations and other relevant U.S. laws and regulations; and
- Held mandatory training on U.S. sanctions regulations for employees and suppliers in China and implemented additional mandatory trainings for new employees, as well as, regular refresher training for current employees and suppliers based in China.

This enforcement action highlights the risks for companies that do not conduct full-spectrum supply chain due diligence when sourcing products from overseas, particularly in a region in which the DPRK, as well as other comprehensively sanctioned countries or regions, is known to export goods. OFAC encourages companies to develop, implement, and maintain a risk-based approach to sanctions compliance and to implement processes and procedures to identify and mitigate areas of risks. Such steps could include, but are not limited to, implementing supply chain audits with country-of-origin verification; conducting mandatory OFAC sanctions training for suppliers; and routinely and frequently performing audits of suppliers.

For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac.