

STATE OF NEW HAMPSHIRE
BUREAU OF SECURITIES REGULATION
DEPARTMENT OF STATE
25 CAPITOL STREET
CONCORD, NH 03301

CONSENT ORDER
IN THE MATTER OF:

GT ADVANCED TECHNOLOGIES INC.
INV2014-00040

I. For purposes of settling the above-referenced matter and in lieu of further administrative proceedings, GT Advanced Technologies Inc. (hereinafter referred to as “Respondent”) has submitted an offer of settlement, which the Bureau of Securities Regulation, Department of State, State of New Hampshire (hereinafter referred to as “the Bureau”) has determined to accept. Accordingly, and without admitting or denying the allegations herein, Respondent does hereby consent to the entry of this Consent Order as set forth below:

II. STATEMENT OF FACTS

1. Respondent is a technology based company primarily engaged in the manufacturing of crystal and sapphire materials used in the electronics industry. Prior to filing for bankruptcy protection in October 2014, Respondent was primarily engaged in the manufacture of equipment that produced silicon and sapphire for use in the photovoltaic and electronics industry and was located in Merrimack, New Hampshire. Respondent is now located in Hudson, New Hampshire. During 2013 through 2014, (hereinafter the “relevant time period”), one of Respondent’s primary products produced was the ASF (Advanced Sapphire Furnace), and Respondent was a leader globally in that industry. The ASF was used to produce sapphire by growing boules from sapphire seed materials at very high temperature. The boules would be cooled and then cut into bricks to be shipped for manufacturing into component parts for products such as cameras and screens. Leading up to the relevant time period, demand for the ASF began to decline and Respondent was looking for opportunities to grow its business and to enter new markets. In 2013, Respondent began marketing the idea of producing sapphire for cell phone screens. Sapphire is the second hardest substance on earth and sapphire could advance cell phone technology greatly by introducing an unbreakable cell phone screen. Respondent introduced their idea to Apple, Inc. (hereinafter “Apple”), one of the largest producers of cell phones

globally. Beginning in 2013, Respondent began negotiations with Apple to produce sapphire in large quantities for installation in a potential iPhone launch in the fall of 2014. On October 31st, 2013, Respondent and Apple reached terms contained in a series of contracts to produce 56 million millimeters of sapphire in 2014.

2. The Apple agreements were a series of contracts with Respondent that establish the terms of the deal with Apple. Respondent was to supply approximately 2000 ASF furnaces to be installed in a plant in Mesa, Arizona. Apple was to build and own the plant and lease it to Respondent. Respondent was required to produce 56 million millimeters of sapphire from 262 kg boules that met quality specifications established by Apple. Apple was not required to buy any of the sapphire. Apple loaned 578 million dollars to Respondent for the ASF which was to be paid back to Apple starting in the beginning of 2015. The 578 million dollars was to be paid to Respondent in four prepayments beginning in November 2013 and ending in April 2014. If Respondent failed to meet certain agreed upon milestones in the sapphire production, Respondent could be determined by Apple to be in default and Apple could call for the immediate repayment of the prepayments made up to that point. Up to this point in time, Respondent's primary business was not the production of sapphire materials and Respondent did not have the proven ability to produce high quality sapphire in 262 kg boules. Their success came in smaller boules.
3. From the outset Respondent had significant difficulty producing sapphire in the quantity and quality necessary to fulfill the contracts. Due to the size of the boule, the sapphire came out of the ASF with various defects unacceptable to Apple. The plant in Mesa experienced power failures and water cooling failures that resulted in the interruption of the growth process spoiling the boules. Although Respondent received the first prepayment in November 2013 shortly after the contracts were signed, the second prepayment was delayed, and the fourth prepayment of 139 million dollars due in April 2014 was withheld by Apple. By the spring and early summer of 2014, Apple lost confidence in Respondent's ability to produce the required sapphire in quantities and quality acceptable to Apple. In July 2014, Apple told Respondent that a planned fall launch of their iPhone with sapphire would be cancelled. Also, Respondent was under financial pressure because the fourth prepayment had not been made, there were high cost overruns occurring in Mesa getting the plant fully operational, and due to exclusivity provisions of the contracts, Respondent could not sell ASF to competitors of Apple.
4. By the spring and early summer of 2014, the relationship between Respondent and Apple over the sapphire manufacturing contracts further deteriorated. Respondent could not get Apple to agree to pay the fourth prepayment. Although Apple indicated that they would renegotiate milestone terms for the fourth prepayment, Apple did not agree to Respondent's proposals. Respondent's CEO

was unsuccessful in getting Apple to relax exclusivity provisions for the sale of ASF. Apple refused to pay for cost overruns in Mesa and refused Respondent's proposals for reduced sapphire production targets. Apple also refused to agree to pricing increases for delivery of sapphire in 2015. Privately, Respondent took the position with its internal auditors that Apple was in breach of the contracts due to the power and water cooling failures in Mesa, and therefore, Respondent's position was that it was not required to book repayment of the money they received as short term debt. Apple was unaware of this position.

5. Respondent's stock during the relevant time period was publically traded on the NASDAQ. As a publically traded company, Respondent was required to periodically file 10-Ks and 10-Qs with the Securities and Exchange Commission. Also, Respondent would have periodic earnings calls with analysts that followed Respondent and the Apple agreements. In 2014, Respondent in its public statements stated that they expected to meet targets for sapphire production under the agreements and receive the 139 million prepayment in October 2014. Respondent's revenue projections were based in part on receipt of the 139 million, successful manufacturing of 25 million millimeters of sapphire for Apple and the sale of ASF furnaces in 2014. Respondent failed to disclose material information and made misrepresentations in their public statements. Respondent failed to disclose that they believed internally that Apple was in breach of the agreements. Apple had not agreed to the reduced target of 25 million millimeters of sapphire production. Respondent did not disclose that the fourth prepayment was missed in April 2014. Payment of the 139 million by October of 2014 was unlikely and realistically targets could not be reached and the prepayment made until 2015 due to delays in the manufacturing process and the inability to ramp up sapphire quantities. Projected numbers of ASF sales were unsupported. Projected revenues for 2014 were overstated and not supported given that Respondent had not made the fourth milestone and was in technical breach of the contracts allowing Apple to demanded immediate repayment of monies already paid to Respondent.
6. Shareholders of Respondent were harmed when its stock lost its value when Respondent declared bankruptcy in October 2014. The Respondent's shares were extinguished pursuant to a plan of reorganization order from the United States Bankruptcy Court District of New Hampshire, which was confirmed on 3/8/2016. The plan became effective 3/17/2016 and the Respondent formally emerged from bankruptcy as a private company.

III. STATEMENT OF LAW

1. Respondent is a "person" within the meaning of RSA 421-B:2,XVI.

2. Respondent's shares are a "security" within the meaning of RSA 421-B:2,XX.
3. Pursuant to RSA 421-B:3, it is unlawful for any person in connection with the offer, sale, or purchase of any security, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made not misleading. Respondent violated this provision.
4. Pursuant to RSA 421-B:22, the Secretary of State may require the payment of costs of investigation if the Respondent is found to have violated RSA 421-B.
5. Pursuant to RSA 421-B:23, whenever it appears to the Secretary of State that any person has engaged or is about to engage in any act or practice constituting a violation of this chapter or any rule under this chapter, he shall have the power to issue and cause to be served upon such person an order requiring the person to cease and desist from violations of this chapter. Respondent is subject to this section.

IV. In view of the foregoing, the Respondent agrees to the following undertakings and sanctions:

1. Respondent agrees that it has voluntarily consented to the entry of this Consent Order and represents and avers that no employee or representative of the Bureau has made any promise, representation or threat to induce its execution.
2. Respondent agrees to waive its right to an administrative hearing and any appeal therein under this chapter.
3. Respondent agrees to cease and desist from any alleged violations of RSA 421-B.
4. Pursuant to RSA 421-B:22, Respondent agrees to pay costs in the total amount of \$50,000 to the State of New Hampshire in two installments of \$25,000 each. The first payment shall be due and payable within 10 days of the execution of this Consent. The second installment is due within 60 days from the date of execution of this Consent. Payment shall be made by 1) United States postal money order, check, bank cashier's check, or bank money order; 2) made payable to the State of New Hampshire; and 3) hand-delivered or mailed to the Bureau of Securities Regulation, Department of State, State House, Room 204, Concord, New Hampshire, 03301.
5. Respondent agrees that this Consent is entered into for purpose of resolving only the matter as described herein. This Consent shall have no collateral estoppel, res judicata, evidentiary, or other legal effect in any other lawsuit, proceeding, or action, not described herein. Likewise, this Consent shall not be construed to

restrict the Bureau's right to initiate an administrative investigation or proceeding relative to conduct by Respondent of which the Bureau has no knowledge at the time of the date of final entry of this Agreement.

6. The Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this Consent or creating the impression that the Consent is without factual basis. However, nothing in this provision affects the Respondent's testimonial obligations or right to take contrary legal or factual positions in litigation or other legal proceedings in which the State of New Hampshire is not a party.
7. Should the Respondent not fully comply with this Consent in all its terms and conditions, the Bureau may withdraw the Consent and proceed with a formal enforcement action.

V. Based on the foregoing, the Bureau deems it appropriate and in the public interest to accept and enter into this Consent. THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent will cease and desist from any violations of the provisions of New Hampshire RSA 421-B.
2. Respondent will pay the cost of the investigation in the amount of \$50,000 as described herein.
3. Respondent will fully comply with the above-referenced undertakings.



on behalf of Respondent
(Please print name, title below:)

dated: March 9, 2020

Michèle P. Rayos, Vice President and CFO


Bureau of Securities Regulation
Barry Glennon, Director

dated: 3-9-2020