

DRAFT

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Stoelting Company
620 Wheat Lane
Wood Dale, Illinois 60191

ATTENTION: President or Chief Executive Officer

Dear Sir or Madam:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Stoelting Company (“Stoelting”) committed eight violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979 (the “Act”). Specifically, BIS charges that Stoelting committed the following violations:

Charges 1-3 (15 C.F.R. § 764.2(a) - Engaging in prohibited conduct)

On or about January 29, 1998, February 5, 1998, and September 1, 1998, Stoelting exported parts for polygraph equipment to the People’s Republic of China (PRC), classified under Export Classification Control Number (“ECCN”) 3A981 on the Commerce Control List, set forth in Supplement No. 1 to Part 774 of the Regulations, without the licenses required by section 742.7

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The current version of the Regulations govern the procedural aspects of this case. The violations charged occurred in 1991-1998 and 1999. The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998 -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 (67 *Fed. Reg.* 53721 (August 16, 2002)), 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/>.

of the Regulations. In so doing, Stoelting committed three violations of Section 764.2(a) of the Regulations.

Charges 4-6 (15 C.F.R. 764.2(e) – - Acting with knowledge of a violation)

On or about each date in charges 1-3 above, Stoelting sold the items described in Charges 1-3 with knowledge that a violation of the Regulations would occurring connection with the items. By acting with knowledge that violations of the Regulations would occur in connection with the exports of the parts for polygraph equipment, Stoelting committed three violations of Section 764.2 (e) of the Regulations.

Charge 7 (15 C.F.R. §764.2(c) - Attempt to violate the Regulations)

On or about March 5, 1999, Stoelting attempted to export monitors for polygraph equipment classified under ECCN 3A981 of the Commerce Control List (Supplement No. 1 to Part 774 of the Regulations) to the People's Republic of China without the license required under Section 742.7 of the Regulations. By attempting to commit a violation of the Regulations, Stoelting committed one violation of Section 764.2 (c) of the Regulations.

Charge 8 (15 C.F.R. §764.2(h) – Evasion)

In the attempt to export monitors for polygraph equipment described in charge 7 above, Stoelting arranged for the items to be exported to Italy, and then forwarded from Italy to the People's Republic of China. The purpose of arranging for the items to be exported to Italy was to evade the license requirement under the Regulations for export of the items to the People's Republic of China. By taking an action with intent to evade the provisions of the Regulations, Stoelting committed one violation of Section 764.2(h) of the Regulations.

Accordingly, Stoelting is hereby notified that an administrative proceeding is instituted against it 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;²

Denial of export privileges; and/or

²Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. §2461, note (1994 & Supp. V 1999)), and 15 C.F.R. §6.4(a)(2), the maximum penalty for each violation committed after October 23, 1996 is \$11,000.

Exclusion from practice before BIS.

If you fail 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 you default, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to you. 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.

You are further notified that you are entitled to an agency hearing on the record if you file a written demand for one with your answer. (Regulations, Section 766.6). You are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent you. (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, your 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 your answer must be served on BIS at the following address:

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

C. Randall Pratt is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301, by facsimile at (202) 501-4697, or by email at cpratt@bis.doc.gov.

Sincerely,

Stoelting Company
Charging Letter
Page 4

DRAFT

Mark D. Menefee
Director
Office of Export Enforcement
Enclosure

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

In the Matter of:)
)
Stoelting Company)
620 Wheat Lane)
Wood Dale, Illinois 60191)
)
Respondent.)
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Stoelting Company (“Stoelting”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The violations charged occurred from 1998 to 1999. The Regulations governing the violations at issue are found in the 1998-1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-1999)). The 2003 Regulations establish the procedures that apply to this matter.

² 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 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/>.

WHEREAS, BIS has notified Stoelting of its intention to initiate an administrative proceeding against Stoelting, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a proposed charging letter to Stoelting that alleged that Stoelting committed eight violations of the Regulations, specifically:

1. *Three Violations of 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct - Exporting Items Without the Required Department of Commerce Licenses:* On or about January 29, 1998, February 5, 1998, and September 1, 1998, Stoelting exported parts for polygraph equipment controlled under Export Control Classification Number (“ECCN”) 3A981 on the Commerce Control List (Supplement No. 1 to part 744 of the Regulations), to the People’s Republic of China (“PRC”) without the Department of Commerce license required under Section 742.7 of the Regulations.
2. *Three Violations of 15 C.F.R. §764.2(e) - Acting with knowledge of a violation:* In connection with the exports referenced above, Stoelting exported the items described with knowledge that a violation of the Regulations would occur in connection with the items. At all times relevant hereto, Stoelting knew a Department of Commerce license was required to export the parts for the polygraph equipment to the PRC, and that licenses were not obtained.
3. *One Violation of 15 C.F.R. §764.2(c) - Attempt to violate the Regulations – Attempt to Export Items without the Required Department of Commerce License:*

On or about March 5, 1999, Stoelting attempted to export monitors for polygraph equipment classified under ECCN 3A981 of the Commerce Control List (Supplement No. 1 to Part 774 of the Regulations) to the PRC without the license required under Section 742.7 of the Regulations.

4. *One Violation of 15 C.F.R. §764.2(h) – Evasion – Arranging to Export Items to Evade a Department of Commerce License Requirement:* In the attempt to export monitors for polygraph equipment described above, Stoelting arranged for the items to be shipped to Italy, and then forwarded from Italy to the PRC. The purpose of arranging for the items to be shipped to Italy was to evade the license requirement under the Regulations for export of the items to the PRC.

WHEREAS, Stoelting has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Stoelting fully understands 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, Stoelting enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, Stoelting neither admits nor denies the allegations contained in the proposed charging letter;

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

WHEREAS, Stoelting agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Stoelting, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanctions shall be imposed against Stoelting in complete settlement of the violations of the Regulations set forth in the proposed charging letter:
 - a. Stoelting shall be assessed a civil penalty in the amount of \$44,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
 - b. For a period of five years from the date of the Order, Stoelting, and, when acting for or on behalf of Stoelting, its representatives, agents, assigns, or employees (“denied persons”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (collectively referred to as “items”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

1. Applying for, obtaining, or using any license, License Exception, or export control document;
 2. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 3. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- c. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the denial period against Stoelting set forth in paragraph 2b. shall be suspended in its entirety, and shall thereafter be waived, provided that during the period of suspension, Stoelting has not committed a violation of the Act or any regulation, order or license issued thereunder.
- d. 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 Stoelting. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Stoelting's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Stoelting 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 entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed 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.

4. Upon entry of the Order and timely payment of the \$44,000 civil penalty, BIS will not initiate any further administrative proceeding against Stoelting in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

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(a) 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.

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

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.

8. 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.

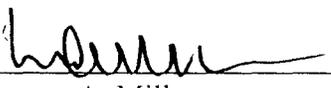
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

STOELTING COMPANY



Mark D. Menefee
Director
Office of Export Enforcement



Lavern A. Miller
Chief Executive Officer

Date: 4/28/04

Date: 04/28/04

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

In the Matter of:)
)
Stoelting Company)
620 Wheat Lane)
Wood Dale, Illinois 60191)
)
Respondent.)
_____)

ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified Stoelting Company (“Stoelting”), of its intention to initiate an administrative proceeding against it pursuant to Section 766.3 of the Export Administration Regulations (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² based on the proposed charging letter issued to Stoelting that alleged that Stoelting committed eight violations of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The Regulations governing the violations at issue are found in the 1998 and 1999 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (1998-1999)). The 2003 Regulations establish the procedures that apply to this matter.

² 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 7, 2003 (68 Fed. Reg. 47833, August 11, 2003)), has continued the Regulations in effect under IEEPA.

Specifically, the charges are:

1. *Three Violations of 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct - Exporting Items Without the Required Department of Commerce Licenses:* On or about January 29, 1998, February 5, 1998, and September 1, 1998, Stoelting exported parts for polygraph equipment controlled under Export Control Classification Number (“ECCN”) 3A981 on the Commerce Control List (Supplement No. 1 to part 744 of the Regulations), to the People’s Republic of China (“PRC”) without the Department of Commerce license required under Section 742.7 of the Regulations.
2. *Three Violations of 15 C.F.R. § 764.2(e) - Acting with knowledge of a violation:* In connection with the exports referenced above, Stoelting exported the items with knowledge that a violation of the Regulations would occurring connection with the items. At all times relevant hereto, Stoelting knew a Department of Commerce license was required to export the parts for the polygraph equipment to the PRC, and that licenses were not obtained.
3. *One Violation of 15 C.F.R. § 764.2(c) - Attempt to violate the Regulations – Attempt to Export Items without the Required Department of Commerce License:* On or about March 5, 1999, Stoelting attempted to export monitors for polygraph equipment classified under ECCN 3A981 of the Commerce Control List (Supplement No. 1 to Part 774 of the Regulations) to the PRC without the license required under Section 742.7 of the Regulations.
4. *One Violation of 15 C.F.R. § 764.2(h) – Evasion – Arranging to Export Items to Evade a Department of Commerce License Requirement:* In the attempt to export

monitors for polygraph equipment described above, Stoelting arranged for the items to be shipped to Italy, and then forwarded from Italy to the PRC. The purpose of arranging for the items to be shipped to Italy was to evade the license requirement under the Regulations for export of the items to the PRC.

BIS and Stoelting having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$44,000 is assessed against Stoelting, which shall be paid 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, Stoelting 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 Stoelting. Accordingly, if Stoelting should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Stoelting's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that for a period of five years from the date of this Order, Stoelting, its successors or assigns, and when acting for or on behalf of Stoelting, its officers, representatives, agents or employees (“denied person”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (collectively referred to as “items”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

FIFTH, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including

- financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;
- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
 - D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
 - E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SIXTH, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Stoelting by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

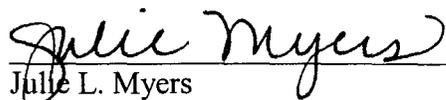
SEVENTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

EIGHTH, that, as authorized by Section 766.18(c) of the Regulations, the denial period against Stoelting set forth in the fourth paragraph shall be suspended in its entirety, and shall

thereafter be waived, provided that during the period of suspension, Stoelting has not committed a violation of the Act or any regulation, order or license issued thereunder.

NINTH, that the proposed 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, is effective immediately.



Julie L. Myers
Assistant Secretary of Commerce
for Export Enforcement

Entered this 8th day of June 2004.