

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

.....
In the Matter of:)
)
ZOLL Medical Corporation)
269 Mill Road)
Chelmsford, Massachusetts 01824-4105)
)
Respondent)
.....

ORDER RELATING TO ZOLL MEDICAL CORPORATION

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") having notified ZOLL Medical Corporation ("ZOLL"), of its intention to initiate an administrative proceeding against ZOLL pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("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 by issuing a proposed charging letter to ZOLL that alleged that ZOLL, committed 10 violations of the Regulations. Specifically, the charges are:

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¹ The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations set forth 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 6, 2004, (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

1. *Two Violations of 15 C.F.R. § 764.2(a) - Export of Medical Defibrillators to Iran Without the Required U.S. Government Authorization:* On or about May 12, 2000 and on or about July 3, 2000, ZOLL engaged in conduct prohibited by the Regulations by exporting medical defibrillators, items subject to both the Regulations (EAR99)³ and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC"),⁴ through South Africa, to Iran without obtaining authorization from OFAC as required by Section 746.7 of the Regulations.
2. *Two Violations of 15 C.F.R. § 764.2(e) - Selling Items With Knowledge Violations of the Regulations Would Occur:* On or about May 12, 2000 and on or about July 3, 2000, ZOLL sold the defibrillators referenced in the charges above with knowledge that violations of the Regulations would occur. Specifically, ZOLL sold the defibrillators when ZOLL knew or had reason to know that they would be exported from the United States to Iran without the required U.S. Government authorization.
3. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Country of Ultimate Destination:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that stated the country of ultimate destination for the defibrillators was South Africa. These statements

³ The term "EAR99" refers to items subject to the Regulations which are not listed on the Commerce Control List. *See* 15 C.F.R. § 734.3(c).

⁴ *See* 31 C.F.R. § 560.204.

were false because, as described in the charges above, the country of ultimate destination was Iran.

4. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignees:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that falsely stated the true identity of the ultimate consignees was STAT (Pty) Ltd. in South Africa. In fact, these statements were false because the actual ultimate consignees in the transactions were located in Iran.
5. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that stated the exports of defibrillators to Iran qualified for export from the United States as NLR ("No License Required"). These statements were false because, as described in the charges above, U.S. Government authorization was required to export these items to Iran.

WHEREAS, BIS and ZOLL have 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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

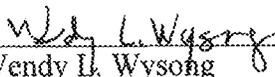
FIRST, that a civil penalty of \$82,500 is assessed against ZOLL, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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

FOURTH, 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.


Wendy L. Wysong
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 12th day of August 2005.

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

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In the Matter of:)
)
ZOLL Medical Corporation)
269 Mill Road)
Chelmsford, Massachusetts 01824-4105)
)
Respondent)
.....

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between ZOLL Medical Corporation, ("ZOLL"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("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 charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations set forth 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 6, 2004, (69 *Fed. Reg.* 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to ZOLL that alleged that ZOLL committed 10 violations of the Regulations, specifically:

1. *Two Violations of 15 C.F.R. § 764.2(a) - Export of Medical Defibrillators to Iran Without the Required U.S. Government Authorization:* On or about May 12, 2000 and on or about July 3, 2000, ZOLL engaged in conduct prohibited by the Regulations by exporting medical defibrillators, items subject to both the Regulations (EAR99)³ and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC"),⁴ through South Africa, to Iran without obtaining authorization from OFAC as required by Section 746.7 of the Regulations.
2. *Two Violations of 15 C.F.R. § 764.2(e) - Selling Items With Knowledge Violations of the Regulations Would Occur:* On or about May 12, 2000 and on or about July 3, 2000, ZOLL sold the defibrillators referenced in the charges above with knowledge that violations of the Regulations would occur. Specifically, ZOLL sold the defibrillators when ZOLL knew or had reason to know that they would be exported from the United States to Iran without the required U.S. Government authorization.

³ The term "EAR99" refers to items subject to the Regulations which are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

⁴ See 31 C.F.R. § 560.204.

3. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Country of Ultimate Destination:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that stated the country of ultimate destination for the defibrillators was South Africa. These statements were false because, as described in the charges above, the country of ultimate destination was Iran.
4. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignees:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that falsely stated the true identity of the ultimate consignees was STAT (Pty) Ltd. in South Africa. In fact, these statements were false because the actual ultimate consignees in the transactions were located in Iran.
5. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export:* In connection with the transactions referenced in the charges above, ZOLL made false statements to the U. S. Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the U. S. Government that stated the exports of defibrillators to Iran qualified for export from the United States as NLR ("No

License Required"). These statements were false because, as described in the charges above, U.S. Government authorization was required to export these items to Iran.

WHEREAS, ZOLL 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, ZOLL 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, ZOLL enters into this Agreement voluntarily and with full knowledge of its rights;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over ZOLL, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against ZOLL in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

- a. ZOLL shall be assessed a civil penalty in the amount of \$82,500 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, permission, or privilege granted, or to be granted, to ZOLL. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of ZOLL'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, ZOLL 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 \$82,500 civil penalty, BIS will not initiate any further administrative proceeding against ZOLL 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 U. S. 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

ZOLL MEDICAL CORPORATION



Michael D. Turner
Director
Office of Export Enforcement

Date: 08/10/2005



Richard A. Packer
President and Chief Executive Officer

Date: 7/29/05

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

ZOLL Medical Corporation
269 Mill Road
Chelmsford, Massachusetts 01824-4105

Attn: *Richard A. Packer*
President and Chief Executive Officer

Dear Mr. Packer:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that ZOLL Medical Corporation of Chelmsford, Massachusetts ("ZOLL"), has committed 10 violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that ZOLL committed the following violations:

**Charges 1-2 15 C.F.R. § 764.2(a) - Export of Medical Defibrillators to Iran
Without the Required U.S. Government Authorization**

On or about May 12, 2000 and on or about July 3, 2000, ZOLL engaged in conduct prohibited by the Regulations by exporting medical defibrillators, items subject to both the Regulations

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000)). The 2005 Regulations set forth the procedures that apply to this matter.

² 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 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 by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under the IEEPA.

(EAR99)³ and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC"),⁴ through South Africa, to Iran without obtaining authorization from OFAC as required by Section 746.7 of the Regulations. In so doing, ZOLL committed two violations of Section 764.2(a) of the Regulations.

Charges 3-4 15 C.F.R. § 764.2(e) - Selling Items With Knowledge Violations of the Regulations Would Occur

On or about May 12, 2000 and on or about July 3, 2000, ZOLL sold the defibrillators referenced in Charges One and Two with knowledge that violations of the Regulations would occur. Specifically, ZOLL sold the defibrillators when ZOLL knew or had reason to know that they would be exported from the United States to Iran without the required U.S. Government authorization. In so doing, ZOLL committed two violations of Section 764.2(e) of the Regulations.

Charges 5-6 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Country of Ultimate Destination

In connection with the transactions referenced in Charges One and Two, ZOLL made false statements to the United States Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the United States Government that stated the country of ultimate destination for the defibrillators was South Africa. These statements were false because, as described in Charges One and Two, the country of ultimate destination was Iran. In so doing, ZOLL committed two violations of Section 764.2(g) of the Regulations.

Charges 7-8 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignees

In connection with the transactions referenced in Charges One and Two, ZOLL made false statements to the United States Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the United States Government that falsely stated the true identity of the ultimate consignees was STAT (Pty) Ltd. in South Africa. In fact, these statements were false because the actual ultimate consignees in the transactions were located in Iran. In so doing, ZOLL committed two violations of Section 764.2(g) of the Regulations.

³ The term "EAR99" refers to items subject to the Regulations which are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

⁴ See 31 C.F.R. § 560.204.

**Charges 9-10 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export
Declarations Concerning Authority to Export**

In connection with the transactions referenced in Charges One and Two, ZOLL made false statements to the United States Government in violation of the Regulations. Specifically, ZOLL filed Shipper's Export Declarations with the United States Government that stated the exports of defibrillators to Iran qualified for export from the United States as NLR ("No License Required"). These statements were false because, as described in Charges One and Two, U.S. Government authorization was required to export these items to Iran. In so doing, ZOLL committed two violations of Section 764.2(g) of the Regulations.

ZOLL 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;⁵

Denial of export privileges; and/or

Exclusion from practice before BIS.

If ZOLL 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. *See* 15 C.F.R. §§ 766.6 and 766.7. If ZOLL defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to ZOLL. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on the each of the charges in this letter.

ZOLL is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. ZOLL is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should ZOLL have a proposal to settle this case, ZOLL or its representative should transmit it to the attorney representing BIS named below.

⁵ *See* 15 C.F.R. § 6.4(a)(2).

ZOLL Medical Corporation
Charging Letter
Page 4 of 4

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, ZOLL's 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 ZOLL's answer must be served on BIS at the following address:

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

David C. Recker is the attorney representing BIS in this case; any communications that ZOLL may wish to have concerning this matter should occur through him. Mr. Recker may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement