

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Stephen Lincoln )  
21 Durrell Drive )  
Rugby, Warwickshire )  
England CV22 7GW )  
 )  
Respondent. )  
\_\_\_\_\_ )

ORDER RELATING TO STEPHEN LINCOLN

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Stephen Lincoln (hereinafter referred to as “Lincoln”) of its intention to initiate an administrative proceeding against Lincoln pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”)<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> by issuing a proposed charging letter to Lincoln that alleged that Lincoln committed two violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2006 Regulations govern the procedural aspects of the case.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

**Charge 1      15 C.F.R. § 764.2(a) - Reexporting Item to Iran Without the Required U.S. Government Authorization**

On one occasion in June 2003, Lincoln engaged in conduct prohibited by the Regulations by reexporting a system containing specialized software ("system"), an item subject to the Regulations (ECCN<sup>3</sup> 5D002), from the United Kingdom ("UK") to Iran without the required U.S. Government authorization. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the system to Iran required a license from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations<sup>4</sup> maintained by the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC"), require OFAC authorization. The reexport of the system to Iran required authorization from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorization was obtained. In failing to obtain such authorization from OFAC, Lincoln committed one violation of Section 764.2(a) of the Regulations.

**Charge 2      15 C.F.R. § 764.2(e) - Unlicensed Transfer of Item to Iran Knowing that a Violation of the Regulations Would Occur**

In connection with the reexport transaction described above, Lincoln transferred a system, an item subject to the Regulations, from the UK to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Lincoln knew that the system required authorization from the U.S. Government for reexport from the UK to Iran and that authorization for the reexport would not be obtained. Specifically, Lincoln received instructions in 2002 from Buehler United Kingdom's parent company, Buehler Limited, that items such as the system which contain specialized software could not be sold to Iran from any Buehler locations. He was also made aware that selling such items to Iran was barred by U.S. law. In so doing, Lincoln committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Lincoln 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 the terms of such Settlement Agreement;

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<sup>3</sup>"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup>The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2006).

IT IS THEREFORE ORDERED:

FIRST, that for a period of seven years from the date of entry of this Order, Stephen Lincoln, 21 Durrell Drive, Rugby, Warwickshire, England CV22 7GW, and when acting for or on behalf of Lincoln, his representatives, assigns, or agents (“Denied Person”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as “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, 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.

SECOND, 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.

THIRD, 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 Lincoln by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

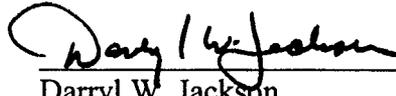
FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject

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.

FIFTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

SIXTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*.

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



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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 2<sup>nd</sup> day of April 2007.

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

In the Matter of: )  
)  
Stephen Lincoln )  
21 Durrell Drive )  
Rugby, Warwickshire )  
England CV22 7GW )  
)  
Respondent. )  
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Stephen Lincoln (“Lincoln”), 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 (2006)) (“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>

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

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<sup>1</sup> The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2006 Regulations govern the procedural aspects of the case.

<sup>2</sup> 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)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2006 (71 Fed. Reg. 44,551 (Aug. 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

**Charge 1      15 C.F.R. § 764.2(a) - Reexporting Item to Iran Without the Required U.S. Government Authorization**

On one occasion in June 2003, Lincoln engaged in conduct prohibited by the Regulations by reexporting a system containing specialized software (“system”), an item subject to the Regulations (ECCN<sup>3</sup> 5D002), from the United Kingdom (“UK”) to Iran without the required U.S. Government authorization. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the system to Iran required a license from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian Transactions Regulations<sup>4</sup> maintained by the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”), require OFAC authorization. The reexport of the system to Iran required authorization from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorization was obtained. In failing to obtain such authorization from OFAC, Lincoln committed one violation of Section 764.2(a) of the Regulations.

**Charge 2      15 C.F.R. § 764.2(e) - Unlicensed Transfer of Item to Iran Knowing that a Violation of the Regulations Would Occur**

In connection with the reexport transaction described above, Lincoln transferred a system, an item subject to the Regulations, from the UK to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Lincoln knew that the system required authorization from the U.S. Government for reexport from the UK to Iran and that authorization for the reexport would not be obtained. Specifically, Lincoln received instructions in 2002 from Buehler United Kingdom’s parent company, Buehler Limited, that items such as the system

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<sup>3</sup>“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup>The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2006).

which contain specialized software could not be sold to Iran from any Buehler locations. He was also made aware that selling such items to Iran was barred by U.S. law. In so doing, Lincoln committed one violation of Section 764.2(e) of the Regulations.

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

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

WHEREAS, Lincoln enters into this Agreement voluntarily and with full knowledge of his rights;

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

- a. For a period of seven years from the date of entry of the Order, Lincoln, and, when acting for or on behalf of Lincoln, his representatives, assigns, or agents (“Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “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, including, but not limited to:
  - i. Applying for, obtaining, or using any license, License Exception, or export control document;
  - ii. 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
  - iii. 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.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Lincoln 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Lincoln 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.

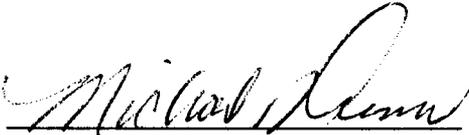
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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 the Parties 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.

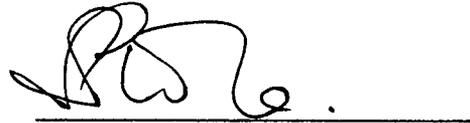
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Michael D. Turner  
Director  
Office of Export Enforcement

STEPHEN LINCOLN



Stephen Lincoln

Date: 03/22/07

Date: 6<sup>th</sup> March 2007.

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Stephen Lincoln  
21 Durrell Drive  
Rugby, Warwickshire  
England CV22 7GW

Dear Mr. Lincoln:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Stephen Lincoln, as former sales manager at Buehler United Kingdom of Coventry, UK, in your individual capacity (“Lincoln”), have committed two violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that Lincoln committed the following violations:

**Charge 1      15 C.F.R. § 764.2(a) - Reexporting Item to Iran Without the Required U.S. Government Authorization**

On one occasion in June 2003, Lincoln engaged in conducted prohibited by the Regulations by reexporting a system containing specialized software (“system”), an item subject to the Regulations (ECCN<sup>3</sup> 5D002), from the United Kingdom (“UK”) to Iran without the required U.S. Government authorization. Pursuant to Section 746.7(a)(2)(ii) of the Regulations, the reexport of the system to Iran required a license from BIS. Pursuant to Section 746.7(a)(3), in order to comply with the provisions of the EAR, transactions subject to both the EAR and the Iranian

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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 (2006). The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2006 Regulations govern the procedural aspects of the case.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). 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 3, 2006 (71 Fed. Reg. 44551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

<sup>3</sup>“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

Transactions Regulations<sup>4</sup> maintained by the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC"), require OFAC authorization. The reexport of the system to Iran required authorization from OFAC pursuant to 31 C.F.R. Part 560.205, and no such authorization was obtained. In failing to obtain such authorization from OFAC, Lincoln committed one violation of Section 764.2(a) of the Regulations.

**Charge 2                    15 C.F.R. § 764.2(e) - Unlicensed Transfer of Item to Iran Knowing  
that a Violation of the Regulations Would Occur**

In connection with the reexport transaction described above, Lincoln transferred a system, an item subject to the Regulations, from the UK to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Lincoln knew that the system required authorization from the U.S. Government for reexport from the UK to Iran and that authorization for the reexport would not be obtained. Specifically, Lincoln received instructions in 2002 from Buehler United Kingdom's parent company, Buehler Limited, that items such as the system which contain specialized software could not be sold to Iran from any Buehler locations. He was also made aware that selling such items to Iran was barred by U.S. law. In so doing, Lincoln committed one violation of Section 764.2(e) of the Regulations.

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Accordingly, Lincoln is hereby notified that an administrative proceeding is instituted against him 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 up to \$11,000 per violation;<sup>5</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Lincoln 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 Lincoln defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Lincoln. The Under

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<sup>4</sup>The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2006).

<sup>5</sup>See 15 C.F.R. §6.4(a)(4) (2003).

Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Lincoln is further notified that he is entitled to an agency hearing on the record if Lincoln files a written demand for one with his answer. (Regulations, Section 766.6). Lincoln is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Lincoln have a proposal to settle this case, Lincoln or his representative should transmit the proposal to 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, Lincoln'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 Lincoln's answer must be served on BIS at the following address:

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

Parvin R. Huda is the attorney representing BIS in this case; any communications that Lincoln may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael D. Turner  
Director  
Office of Export Enforcement