

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

\_\_\_\_\_  
In the Matter of: )  
)  
Mr. David Rainville )  
Vice President of Administration, and )  
Sales and Marketing Manager )  
Select Engineering, Inc. )  
260 Lunenburg St. )  
Fitchburg, MA 01420-4504 )  
)  
Respondent \_\_\_\_\_)

ORDER RELATING TO DAVID RAINVILLE

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified David Rainville (“Rainville”), of its intention to initiate an administrative proceeding against Rainville pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “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)) (the “Act”),<sup>2</sup> through the issuance of a proposed charging letter to Rainville that alleged that Rainville committed one violation of the Regulations. Specifically, the charge is:

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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 (2008). The violation alleged occurred 2005. The Regulations governing the allegation at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2008 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 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), 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(g) - False Statement to a BIS Special Agent in the Course of an Investigation**

On April 8, 2005, Rainville made a false or misleading representation or statement to a BIS Special Agent in the course of a BIS investigation into the unlicensed export of medical equipment by Select Engineering, Inc. ("Select") from the United States to Iran, via the United Arab Emirates, that had occurred on or about January 18, 2005. Rainville, Select's Vice-President of Administration and its Sales and Marketing Manager, was directly and personally involved in this transaction, which involved the export of medical electrode sensor elements and stainless steel snap connectors, items subject to the Regulations (classified as EAR 99) and the Iranian Transaction Regulations (ITR)<sup>3</sup> maintained by the U.S. Treasury Department's Office of Foreign Asset Control ("OFAC"), to Iran without the required U.S. government authorization.<sup>4</sup> During an interview with the BIS Special Agent on April 8, 2005, when asked if he had consulted with anyone concerning export compliance issues regarding this transaction, Rainville indicated that he had discussed the transaction with an international trade specialist in the Department of Commerce's International Trade Administration in March 2005, after the export had occurred, but falsely or misleadingly stated that he had not discussed the transaction with him before the export had occurred. In fact, Rainville had discussed the transaction on November 11 and 12, 2004, in an email exchange that he initiated with the same international trade specialist, and had been informed, *inter alia*, that the United States maintains an embargo against Iran that generally restricts exporting to Iran and that Select would need to apply to OFAC for a license for exporting medical equipment to Iran. Furthermore, this November 2004 discussion was specifically referenced by the international trade specialist when Rainville contacted him again on March 28, 2005. Rainville was interviewed by a BIS Special Agent just 11 days thereafter, on April 8, 2005. In making a false or misleading statement to the BIS Special Agent in the course of a BIS investigation, Rainville committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Rainville 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:

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<sup>3</sup> Currently codified at 31 C.F.R. Part 560.

<sup>4</sup> Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran.

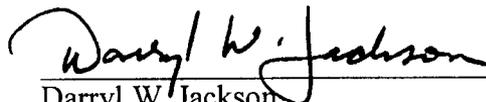
FIRST, Rainville shall be assessed a civil penalty in the amount of \$35,200 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

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, Rainville 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 Rainville.

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.

  
\_\_\_\_\_  
Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 16<sup>th</sup> day of July, 2008.

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

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Mr. David Rainville )  
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Select Engineering, Inc. )  
260 Lunenburg St. )  
Fitchburg, MA 01420-4504 )  
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)  
Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Mr. David Rainville, (“Rainville”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

<sup>1</sup> The violation alleged to have been committed occurred in 2005. The Regulations governing the violation at issue are found in the 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2008 Regulations establish the procedures that apply to this matter.

<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. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2000)).

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

WHEREAS, BIS has issued a proposed charging letter to Rainville that alleged that he committed one violation of the Regulations, specifically:

**Charge 1      15 C.F.R. § 764.2(g) - False Statement to a BIS Special Agent in the Course of an Investigation**

On April 8, 2005, Rainville made a false or misleading representation or statement to a BIS Special Agent in the course of a BIS investigation into the unlicensed export of medical equipment by Select Engineering, Inc. ("Select") from the United States to Iran, via the United Arab Emirates, that had occurred on or about January 18, 2005. Rainville, Select's Vice-President of Administration and its Sales and Marketing Manager, was directly and personally involved in this transaction, which involved the export of medical electrode sensor elements and stainless steel snap connectors, items subject to the Regulations (classified as EAR 99) and the Iranian Transaction Regulations (ITR)<sup>3</sup> maintained by the U.S. Treasury Department's Office of Foreign Asset Control ("OFAC"), to Iran without the required U.S. government authorization.<sup>4</sup> During an interview with the BIS Special Agent on April 8, 2005, when asked if he had consulted with anyone concerning export compliance issues regarding this transaction, Rainville indicated that he had discussed the transaction with an international trade specialist in the Department of Commerce's International Trade Administration in March 2005, after the export had occurred, but falsely or misleadingly stated that he had not discussed the transaction with him before the export had occurred. In fact, Rainville had discussed the transaction on November 11 and 12, 2004, in an email exchange that he initiated with the same international trade specialist, and had been informed, *inter alia*, that the United States maintains an embargo against Iran that generally restricts exporting to Iran and that Select would need to apply to OFAC for a license for exporting medical equipment to Iran. Furthermore, this November 2004 discussion was specifically referenced by the international trade specialist when Rainville contacted him again on March 28, 2005. Rainville was interviewed by a BIS Special Agent just 11 days thereafter, on April 8, 2005. In making a false or misleading statement to the BIS Special Agent in the course of a BIS investigation, Rainville committed one violation of Section 764.2(g) of the Regulations.

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<sup>3</sup> Currently codified at 31 C.F.R. Part 560.

<sup>4</sup> Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Rainville, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Rainville in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. Rainville shall be assessed a civil penalty in the amount of \$35,200 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.

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 Rainville.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Rainville 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 and timely payment of the \$35,200 civil penalty, BIS will not initiate any further administrative proceeding against Rainville 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

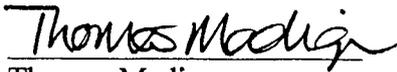
Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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 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

  
Thomas Madigan  
Acting Director  
Office of Export Enforcement

Date: 7/10/08

  
David Rainville

Date: 6/30/2008

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David Rainville  
Vice President of Administration, and  
Sales and Marketing Manager  
Select Engineering, Inc.  
260 Lunenburg St.  
Fitchburg, MA 01420-4504

Dear Mr. Rainville:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, David Rainville (hereinafter “Rainville” or “you”), in your individual capacity have committed one violation 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 you committed the following violation:

**Charge 1      15 C.F.R. § 764.2(g) - False Statement to a BIS Special Agent in the Course of an Investigation**

On April 8, 2005, Rainville made a false or misleading representation or statement to a BIS Special Agent in the course of a BIS investigation into the unlicensed export of medical equipment by Select Engineering, Inc. (“Select”) from the United States to Iran, via the United Arab Emirates, that had occurred on or about January 18, 2005. Rainville, Select’s Vice-President of Administration and its Sales and Marketing Manager, was

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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 (2008). The violation charged occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2008 Regulations govern the procedural aspects of this 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., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706)(“IEEPA”).

directly and personally involved in this transaction, which involved the export of medical electrode sensor elements and stainless steel snap connectors, items subject to the Regulations (classified as EAR 99) and the Iranian Transaction Regulations (ITR)<sup>3</sup> maintained by the U.S. Treasury Department's Office of Foreign Asset Control ("OFAC"), to Iran without the required U.S. government authorization.<sup>4</sup> During an interview with the BIS Special Agent on April 8, 2005, when asked if he had consulted with anyone concerning export compliance issues regarding this transaction, Rainville indicated that he had discussed the transaction with an international trade specialist in the Department of Commerce's International Trade Administration in March 2005, after the export had occurred, but falsely or misleadingly stated that he had not discussed the transaction with him before the export had occurred. In fact, Rainville had discussed the transaction on November 11 and 12, 2004, in an email exchange that he initiated with the same international trade specialist, and had been informed, *inter alia*, that the United States maintains an embargo against Iran that generally restricts exporting to Iran and that Select would need to apply to OFAC for a license for exporting medical equipment to Iran. Furthermore, this November 2004 discussion was specifically referenced by the international trade specialist when Rainville contacted him again on March 28, 2005. Rainville was interviewed by a BIS Special Agent just 11 days thereafter, on April 8, 2005. In making a false or misleading statement to the BIS Special Agent in the course of a BIS investigation, Rainville committed one violation of Section 764.2(g) of the Regulations.

\* \* \*

Accordingly, you are hereby notified that an administrative proceeding is instituted against you 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 \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>5</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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<sup>3</sup> Currently codified at 31 C.F.R. Part 560.

<sup>4</sup> Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran.

<sup>5</sup> See International Emergency Economic Powers Enhancement Act, Pub. L. No. 110-96 (2007).

Mr. David Rainville  
Proposed Charging Letter  
Page 3

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. 15 C.F.R. §§ 766.6 and 766.7 (2008). If you default, the Administrative Law Judge may find the charges alleged in this letter are true without a 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).

You are further notified that under the Small Business Regulatory Enforcement Flexibility Act, you may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

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 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:

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

Elias Wolfberg is the attorney representing BIS in this case; any communications that

Mr. David Rainville  
Proposed Charging Letter  
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you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-3849.

Sincerely,

Thomas Madigan  
Acting Director  
Office of Export Enforcement