

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

In the Matter of:)
)
Select Engineering, Inc.)
260 Lunenburg St.)
Fitchburg, MA 01420-4504)
)
Respondent)

ORDER RELATING TO SELECT ENGINEERING, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Select Engineering, Inc. (“Select”), of its intention to initiate an administrative proceeding against Select pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2008)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through the issuance of a proposed charging letter to Select that alleged that Select committed one violation of the Regulations. Specifically, the charge is:

¹ 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.

² 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(e) – Unlicensed Export to Iran with Knowledge of a Violation

On or about January 18, 2005, Select sold and/or transported or caused to be transported medical equipment, specifically medical electrode sensor elements and stainless steel snap connectors, which are items subject to the Regulations (classified as EAR99) and the Iranian Transaction Regulations (ITR)³ maintained by the U.S. Treasury Department's Office of Foreign Asset Control ("OFAC"), for export from the United States to Iran, via the United Arab Emirates, without the required U.S. government authorization. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran. Select acted with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Select knew that the items were destined for Iran, that such exports required U.S. Government authorization, and that authorization for the export of the items had not been obtained. Select knew that U.S. Government authorization was required because, *inter alia*, in 2001, Select had applied for and received an OFAC license to export the same type of medical equipment to Iran, and in November 2004, a representative from the Department of Commerce's International Trade Administration alerted Select's Vice President of Administration and Sales and Marketing Manager, in an email exchange, 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. In so doing, Select committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Select 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, Select shall be assessed a civil penalty in the amount of \$52,800 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

³ Currently codified at 31 C.F.R. Part 560.

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, Select 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 Select. Accordingly, if Select should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Select's export privileges under the Regulations 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.



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 16th day of July, 2008.

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

In the Matter of:)
)
)
Select Engineering, Inc.)
260 Lunenburg St.)
Fitchburg, MA 01420-4504)
)
)
Respondent _____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Select Engineering, Inc. (“Select”), 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”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),²

¹ The violation alleged to have been committed occurred in 2005. The Regulations governing the violation 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 establish the procedures that apply to this matter.

² 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 Select of its intention to initiate an administrative proceeding against Select, pursuant to the Act and the Regulations;

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

Charge 1 15 C.F.R. § 764.2(e) – Unlicensed Export to Iran with Knowledge of a Violation

On or about January 18, 2005, Select sold and/or transported or caused to be transported medical equipment, specifically medical electrode sensor elements and stainless steel snap connectors, which are items subject to the Regulations (classified as EAR99) and the Iranian Transaction Regulations (ITR) 3 maintained by the U.S. Treasury Department's Office of Foreign Asset Control ("OFAC"), for export from the United States to Iran, via the United Arab Emirates, without the required U.S. government authorization. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran. Select acted with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Select knew that the items were destined for Iran, that such exports required U.S. Government authorization, and that authorization for the export of the items had not been obtained. Select knew that U.S. Government authorization was required because, *inter alia*, in 2001, Select had applied for and received an OFAC license to export the same type of medical equipment to Iran, and in November 2004, a representative from the Department of Commerce's International Trade Administration alerted Select's Vice President of Administration and Sales and Marketing Manager, in an email exchange, 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. In so doing, Select committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, Select 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;

³ Currently codified at 31 C.F.R. Part 560.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Select in complete settlement of the alleged violation of the Regulations relating to the transaction specifically detailed in the proposed charging letter:

a. Select shall be assessed a civil penalty in the amount of \$52,800 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 Select. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Select'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, Select 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 \$52,800 civil penalty, BIS will not initiate any further administrative proceeding against Select 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

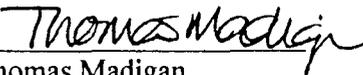
shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

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

SELECT ENGINEERING, INC.

 PRES.
Steven Aho
President

Date: 6/24/08

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Select Engineering, Inc.
260 Lunenburg St.
Fitchburg, MA 01420-4504

Attention: *Steven R. Aho*
President

Dear Mr. Aho:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Select Engineering, Inc. (“Select”), of Fitchburg, Massachusetts, has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Select committed the following violation:

Charge 1 15 C.F.R. § 764.2(e) – Unlicensed Export to Iran with Knowledge of a Violation

On or about January 18, 2005, Select sold and/or transported or caused to be transported medical equipment, specifically medical electrode sensor elements and stainless steel snap connectors, which are items subject to the Regulations (classified as EAR99) and the Iranian Transaction Regulations (ITR)³ maintained by the U.S. Treasury

¹ 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.

² 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”).

³ Currently codified at 31 C.F.R. Part 560.

Department's Office of Foreign Asset Control ("OFAC"), for export from the United States to Iran, via the United Arab Emirates, without the required U.S. government authorization. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required before the items could be exported to Iran. Select acted with knowledge that a violation of the Regulations had occurred, was about to occur, or was intended to occur in connection with the items. Select knew that the items were destined for Iran, that such exports required U.S. Government authorization, and that authorization for the export of the items had not been obtained. Select knew that U.S. Government authorization was required because, *inter alia*, in 2001, Select had applied for and received an OFAC license to export the same type of medical equipment to Iran, and in November 2004, a representative from the Department of Commerce's International Trade Administration alerted Select's Vice President of Administration and Sales and Marketing Manager, in an email exchange, 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. In so doing, Select committed one violation of Section 764.2(e) of the Regulations.

* * *

Accordingly, Select 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 up to \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Select 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. 15 C.F.R. §§ 766.6 and 766.7 (2008). If Select defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Select. 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.

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

⁴ See International Emergency Economic Powers Enhancement Act, Pub. L. No. 110-96 (2007).

Select is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Select 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 Select have a proposal to settle this case, Select or its 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, Select'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 Select's 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 Select 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