

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

In the Matter of:

Solenta Aviation (Pty) Ltd.  
Block 5, Stratford Office Park,  
Cnr Cedar Avenue and Valley Road,  
Broadacres Fourways,  
Johannesburg, South Africa  
P.O. Box 469, Lanseria, 1748

Respondent

ORDER RELATING TO SOLENTA AVIATION (PTY) LTD.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has notified Solenta Aviation (Pty) Ltd., of Johannesburg, South Africa ("Solenta"), of its intention to initiate an administrative proceeding against Solenta pursuant to Section 766.3 of the Export Administration Regulations (the "Regulations"),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the "Act"),<sup>2</sup> through the issuance of a Proposed Charging Letter to Solenta that alleges that Solenta committed one violation of the Regulations. Specifically, the charge is:

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The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The violation charged occurred between 2007 and 2009. The Regulations governing the violation at issue are found in the 2007 through 2009 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007-2009)). The 2013 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 13,222 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, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

**Charge 1                      15 C.F.R. § 764.2(a): Reexport of Aircraft to Sudan Without  
the Required Licenses**

Between October 2007 and May 2009, Solenta engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required license. Solenta reexported the items, including Beechcraft 1900 aircraft classified under Export Control Classification Number 9A991 and controlled for Anti-Terrorism reasons, from South Africa to Sudan without the Department of Commerce licenses required by Section 742.10 of the Regulations. The items were exported pursuant to a lease agreement between Solenta and Blue Bird Aviation, a company based in Khartoum, Sudan. The aircraft operated in Sudan bearing the livery and logo of Blue Bird Aviation. In reexporting the items to Sudan without the required license, Solenta committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, BIS and Solenta 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, Solenta shall be assessed a civil penalty in the amount of \$70,000.

Solenta shall pay \$40,000 to the U.S. Department of Commerce in four installments as follows: \$10,000, not later than May 31, 2013; \$10,000, not later than August 15, 2013; \$10,000, not later than November 15, 2013; and \$10,000, not later than February 14, 2014. Payment of the remaining \$30,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year probationary period under the Order, Solenta has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder, and has made full and timely payment of \$40,000 as set forth above. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments and any suspended penalty may become due and owing immediately.

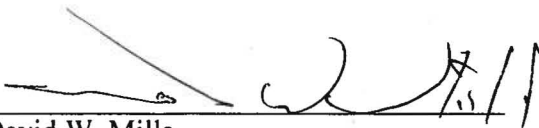
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Solenta will be assessed, in addition 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 full and timely payment of the civil penalty in accordance with the payment schedule 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 Solenta. Accordingly, if Solenta should fail to pay the civil penalty in a full and timely manner as set forth above, the undersigned may issue an order denying all of Solenta's export privileges under the Regulations for a period of one year from the date of failure to fully and timely make any of the above-described installment payments.

FOURTH, Solenta shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or this Order. The foregoing does not affect Solenta's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

FIFTH, 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.

A handwritten signature in black ink, appearing to read 'David W. Mills', is written over a horizontal line.

David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 23<sup>rd</sup> day of May, 2013.

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

In the Matter of:

Solenta Aviation (Pty) Ltd.  
Block 5, Stratford Office Park,  
Cnr Cedar Avenue and Valley Road,  
Broadacres Fourways,  
Johannesburg, South Africa  
P.O. Box 469, Lanseria, 1748

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Solenta Aviation (Pty) Ltd., of Johannesburg, South Africa ("Solenta"), 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 (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup>

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

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The violation charged occurred between 2007 and 2009. The Regulations governing the violation at issue are found in the 2007 through 2009 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007-2009)). The 2013 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 13,222 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, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).



WHEREAS, BIS has issued a Proposed Charging Letter to Solenta that alleges that Solenta committed one violation of the Regulations, specifically:

**Charge 1                    15 C.F.R. § 764.2(a): Reexport of Aircraft to Sudan Without the Required Licenses**

Between October 2007 and May 2009, Solenta engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required license. Solenta reexported the items, including Beechcraft 1900 aircraft classified under Export Control Classification Number 9A991 and controlled for Anti-Terrorism reasons, from South Africa to Sudan without the Department of Commerce licenses required by Section 742.10 of the Regulations. The items were exported pursuant to a lease agreement between Solenta and Blue Bird Aviation, a company based in Khartoum, Sudan. The aircraft operated in Sudan bearing the livery and logo of Blue Bird Aviation. In reexporting the items to Sudan without the required license, Solenta committed one violation of Section 764.2(a) of the Regulations.

WHEREAS, Solenta has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS, Solenta 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, Solenta enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

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

WHEREAS, Solenta neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Solenta agrees to be bound by the Order, if issued;

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

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the left.

1. BIS has jurisdiction over Solenta, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanctions shall be imposed against Solenta in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. Solenta shall be assessed a civil penalty in the amount of \$70,000.

Solenta shall pay \$40,000 to the U.S. Department of Commerce in four installments as follows: \$10,000, not later than May 31, 2013; \$10,000, not later than August 15, 2013; \$10,000, not later than November 15, 2013; and \$10,000, not later than February 14, 2014. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$30,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year probationary period under the Order, Solenta has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder, and has made full and timely payment of \$40,000 as set forth above. If any of the four installment payments set forth above is not fully and timely made, any remaining scheduled installment payments and any suspended penalty may become due and owing immediately.

b. The full and timely payment of the civil penalty as set forth 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 Solenta. Failure to make full and timely payment of the civil penalty as set forth in Paragraph 2.a may result in the denial of all of Solenta's export privileges under the



Regulations for one year from the date of the failure to fully and timely make any of the above-described installment payments.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Solenta 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 issued), 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 issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. Solenta also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until Solenta pays in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

4. Solenta shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Proposed Charging Letter or the Order. The foregoing does not affect Solenta's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, BIS will not initiate any further administrative proceeding against Solenta in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.





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 issued; 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.

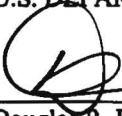
8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.


A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive or semi-cursive script.

10. 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

  
\_\_\_\_\_  
Douglas R. Hassebrock  
Director of Export Enforcement


SOLENTA AVIATION (PTY) LTD.

  
\_\_\_\_\_  
Leon van de Moortele  
Group Finance Director

Date: May 24, 2013

Date: May 17, 2013

Reviewed and approved by:

  
\_\_\_\_\_  
Amit P. Mehta, Esq.  
Zuckerman Spaeder, LLP  
Counsel for Solenta

Date: May 17, 2013

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Solenta Aviation (Pty.) Ltd.  
Block 5, Stratford Office Park,  
Cnr Cedar Avenue and Valley Road, Broadacres Fourways,  
Johannesburg, South Africa  
P.O. Box 469, Lanseria, 1748

Attention: Paul Hurst  
*Managing Director*

Dear Mr. Hurst:

The Bureau of Industry and Security, U. S. Department of Commerce ("BIS"), has reason to believe that Solenta Aviation (Pty.) Ltd., of Johannesburg, South Africa ("Solenta"), has committed two violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").<sup>2</sup> Specifically, BIS charges that Solenta committed the following violations:

**Charge 1                      15 C.F.R. § 764.2(a): Reexport of Aircraft to Sudan Without the Required Licenses**

Between October 2007 and May 2009, Solenta engaged in conduct prohibited by the Regulations when it reexported items subject to the Regulations to Sudan without the required license. Solenta reexported the items, including Beechcraft 1900 aircraft classified under Export Control Classification Number 9A991 and controlled for Anti-Terrorism reasons, from South Africa to Sudan without the Department of Commerce licenses required by Section 742.10 of the Regulations. The items were exported pursuant to a lease agreement between Solenta and Blue

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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 (2013). The violation charged occurred between 2007 and 2009. The Regulations governing the violation at issue are found in the 2007 through 2009 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2007-2009)). The 2013 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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49,699 (Aug. 16, 2012)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010) ("IEEPA").

Bird Aviation, a company based in Khartoum, Sudan. The aircraft operated in Sudan bearing the livery and logo of Blue Bird Aviation. In reexporting the items to Sudan without the required license, Solenta committed one violation of Section 764.2(a) of the Regulations.

\* \* \* \* \*

Accordingly, Solenta 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 the greater of \$250,000 per violation or twice the value of the transaction that is the basis of the violation;<sup>3</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Solenta is hereby notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. (Regulations, Section 766.6). Solenta 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.

Solenta is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Solenta 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. *See* 15 C.F.R. §§ 766.18. Should Solenta have a proposal to settle this case, Solenta's representative should transmit it to the attorney representing BIS named below.

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<sup>3</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Solenta Aviation (Pty) Ltd  
Proposed Charging Letter  
Page 3 of 3

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

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

Eric Clark is the attorney representing BIS in this case; any communications that Solenta may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Hassebrock', with a long horizontal line extending to the right.

Douglas Hassebrock  
Director  
Office of Export Enforcement