

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

In the Matter of:

Stemcor USA, Inc.
The Empire State Building
350 Fifth Avenue, Suite 1526
New York, NY 10118

Respondent

ORDER RELATING TO
STEMCOR USA, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Stemcor USA, Inc., of New York, New York (“Stemcor”), of its intention to initiate an administrative proceeding against Stemcor pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Stemcor that alleges that Stemcor 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 (2013). The charged violation occurred in 2012. The Regulations governing the violation at issue are found in the 2012 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (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(c) – Attempted Export of Scrap Steel to a
Listed Entity in Pakistan Without the Required License**

On one occasion, on or about February 29, 2012, Stemcor attempted a violation of the Regulations when it took steps to export scrap steel, an item subject to the Regulations, designated EAR99,³ and valued at approximately \$417,000, from the United States to People's Steel Mills in Pakistan without the Department of Commerce license required by Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. People's Steel Mills is a Pakistani entity that has been on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations since November 1998, through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including People's Steel Mills, that were "determined to be involved in nuclear or missile activities."⁴ Stemcor's attempted unlicensed export of the item to People's Steel Mills was thwarted when the shipment was detained by BIS's Office of Export Enforcement.

WHEREAS, BIS and Stemcor 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, Stemcor shall be assessed a civil penalty in the amount of \$35,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

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

³ EAR99 is a designation for items that are subject to the Regulations, but not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2012 and 2013).

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19. 1998).

due date specified herein, Stemcor 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, Stemcor's Vice President and Shipping Manager shall both complete export compliance training on the Regulations within twelve months from the date of this Order. Before each of them attends a training course or program, Stemcor shall notify the Office of Export Enforcement, Special Agent in Charge of the New York Field Office, of the course or program each of them has selected to attend. No later than one month after attending the compliance course or program, Stemcor shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 1200 South Avenue, Suite 104, Staten Island, New York 10314.

FOURTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above and the completion and submission of verification of attendance at an export compliance training as set forth above are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Stemcor. Accordingly, if Stemcor should fail to pay the civil penalty in a full and timely manner, or complete and submit verification of attendance of an export compliance training, the undersigned may issue an order denying all of Stemcor's export privileges under the Regulations for a period of one year from the date of failure to make such payment or complete and submit verification of attendance of an export compliance training.

FIFTH, Stemcor 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 Stemcor'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.

SIXTH, 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 blue 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 21st day of June, 2013.

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

In the Matter of:

Stemcor USA, Inc.
The Empire State Building
350 Fifth Avenue, Suite 1526
New York, NY 10118

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Stemcor USA, Inc., of New York, New York ("Stemcor"), 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"),¹ issued pursuant to the Export Administration Act of 1979, as amended (the "Act").²

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

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

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2012. The Regulations governing the violation at issue are found in the 2012 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2012 (77 Fed. Reg. 49699 (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(c) – Attempted Export of Scrap Steel to a
Listed Entity in Pakistan Without the Required License**

On one occasion, on or about February 29, 2012, Stemcor attempted a violation the Regulations when it took steps to export scrap steel, an item subject to the Regulations, designated EAR99,³ and valued at approximately \$417,000, from the United States to People's Steel Mills in Pakistan without the Department of Commerce license required by Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. People's Steel Mills is a Pakistani entity that has been on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations since November 1998, through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including People's Steel Mills, that were "determined to be involved in nuclear or missile activities."⁴ Stemcor's attempted unlicensed export of the item to People's Steel Mills was thwarted when the shipment was detained by BIS's Office of Export Enforcement.

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

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

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

³ EAR99 is a designation for items that are subject to the Regulations, but not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2012 and 2013).

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19. 1998).

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

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

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

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

a. Stemcor shall be assessed a civil penalty in the amount of \$35,000, the payment of which shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the manner specified in the attached instructions.

b. Stemcor's Vice President and Shipping Manager shall both complete export compliance training on the Regulations within twelve months from the date of the Order. Before each of them attends a training course or program, Stemcor shall notify the Office of Export Enforcement, Special Agent in Charge of the New York Field Office, of the course or program each of them has selected to attend. No later than one month after attending the compliance course or program, each of them shall submit a certification of attendance from the training provider to the Office of Export Enforcement, 1200 South Avenue, Suite 104, Staten Island, New York 10314.

c. The full and timely payment of the civil penalty agreed to in Paragraph 2.a and the timely completion and submission of verification of

attendance at an export compliance training in Paragraph 2.b, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Stemcor. Failure to make full and timely payment of the civil penalty, to complete and submit verification of attendance at an export compliance training as set forth above, may result in the denial of all of Stemcor's export privileges under the Regulations for one year from the date of the failure to make such payment or complete and submit verification of attendance at an export compliance training.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Stemcor 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) have 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. Stemcor 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 transaction 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 the later of the date Stemcor pays in full the civil penalty set forth in Paragraph 2.a of this Agreement or has completed and submitted verification of attendance at an export compliance training set forth in Paragraph 2.b.

4. Stemcor 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 Stemcor'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 and completion and submission of verification of attendance at an export compliance training in Paragraph 2.b, BIS will not initiate any further administrative proceeding against Stemcor in connection with any violation of the Act or the Regulations arising out of the transaction 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.

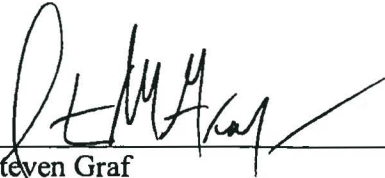
10. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Douglas R. Hassebrock
Director of Export Enforcement

STEMCOR USA, Inc.

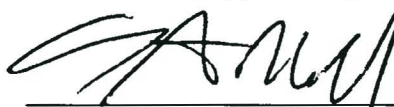


Steven Graf
President

Date: 6/20/2013

Date: 6/18/13

Reviewed and approved by:



M. Sean Purcell, Esq.
Vorys, Sater, Seymour and Pease, LLP
Counsel for Stemcor

Date: 6/19/13

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Stemcor USA, Inc.
The Empire State Building
350 Fifth Avenue, Suite 1526
New York, NY 10118

Attn: Steven Graf, President

Dear Mr. Graf:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Stemcor USA, Inc., of New York, New York ("Stemcor"), has committed one violation of the Export Administration Regulations (the "Regulations"),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that Stemcor committed the following violation:

Charge 1 15 C.F.R. §764.2(c) – Attempted Export of Scrap Steel to a Listed Entity in Pakistan Without the Required License

On one occasion, on or about February 29, 2012, Stemcor attempted a violation of the Regulations when it took steps to export scrap steel, an item subject to the Regulations, designated EAR99,³ and valued at approximately \$417,000, from the United States to People's Steel Mills in Pakistan without the Department of Commerce license required by Section 744.1 and Supplement No. 4 to Part 744 of the Regulations. People's Steel Mills is a Pakistani entity that has been on the Entity List set forth in Supplement No. 4 to Part 744 of the Regulations since November 1998, through a rule published in the *Federal Register* regarding certain entities in India and Pakistan, including People's Steel Mills, that were "determined to be involved in

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013).

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. 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 and Supp. IV 2010).

³ EAR99 is a designation for items that are subject to the Regulations, but not listed on the Commerce Control List, which is set forth at Supplement No. 1 to Part 774 of the Regulations. 15 C.F.R. § 774.1 (2012 and 2013).

nuclear or missile activities.”⁴ Stemcor’s attempted unlicensed export of the item to People’s Steel Mills was thwarted when the shipment was detained by BIS’s Office of Export Enforcement.

In attempting the export set forth above without the required license, Stemcor committed one violation of Section 764.2(c) of the Regulations.

* * * * *

Accordingly, Stemcor 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;⁵
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If Stemcor 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 Stemcor defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Stemcor. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

Stemcor 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. Stemcor 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 Stemcor have a proposal to settle this case, Stemcor should transmit it to the attorney representing BIS named below.

Stemcor is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Stemcor may be eligible for assistance from the Office of the National Ombudsman of the

⁴ *India and Pakistan Sanctions and Other Measures*, 63 Fed. Reg. 64,322 (Nov. 19, 1998).

⁵ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Stemcor USA, Inc.
Proposed Charging Letter
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Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

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

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

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement