

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Wilden Pump and Engineering Company
22069 Van Buren St.
Grand Terrace, CA 92313

Attention: John D. Allen, President and Chief Operating Officer

Dear Mr. Allen:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Wilden Pump and Engineering Company ("Wilden") of Grand Terrace, California, has committed 71 violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that Wilden committed the following violations:

Charges 1-2 15 C.F.R. § 764.2(a) - Exporting Pumps to Iran Without the Required U.S. Government Authorizations

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on two occasions on or about November 22, 2000, and on or about August 7, 2001,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred between 2000 and 2003. The Regulations governing the violations at issue are found in the 2000-2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2003)). The 2004 Regulations govern the procedural aspects of the case.

² 50 U.S.C. app. §§ 2401-2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. 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 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), has continued the Regulations in effect under IEEPA.

Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (EAR 99³) and the Iranian Transactions Regulations⁴, from the United States to Iran through the United Arab Emirates (UAE) without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC") before the pumps could be exported to Iran. In so doing, Wilden committed two violations of Section 764.2(a) of the Regulations.

Charges 3-4 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Iran

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the two exports to Iran described in Charges 1-2 above, Wilden filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government that stated that the pumps qualified for export from the United States as NLR ("no license required"). These statements were false because, as described above, the pumps were subject to the Regulations and the Iranian Transaction Regulations and required prior authorization from the Department of Treasury pursuant to Section 746.7 of the Regulations. In so doing, Wilden committed two violations of Section 764.2(g) of the Regulations.

Charges 5-6 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Regarding Country of Ultimate Destination

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the two exports of diaphragm pumps to Iran described in Charges 1-2 above, Wilden filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the country of ultimate destination for the pumps was the UAE. These two representations were false, as the actual country of ultimate destination for the pumps described in the SEDs was Iran. In so doing, Wilden committed two violations of Section 764.2(g) of the Regulations.

Charge 7 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Iran Knowing that a Violation of the Regulations was to Occur

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2004).

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the August 7, 2001 export to Iran described in Charge 2, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required authorization from the U.S. Government and that authorization for the export would not be obtained. In so doing, Wilden committed one violation of Section 764.2(e) of the Regulations.

Charge 8 15 C.F.R. § 764.2(a) - Exporting Pump to Syria Without the Required Department of Commerce License

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about October 3, 2001, Wilden engaged in conduct prohibited by the Regulations by exporting a diaphragm pump, an item subject to the Regulations (ECCN⁵ 2B350i.4), from the United States to Syria without obtaining the Department of Commerce license required by Section 742.2 of the Regulations. In so doing, Wilden committed one violation of Section 764.2(a) of the Regulations.

Charge 9 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pump to Syria Knowing that a Violation of the Regulations was to Occur

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the export to Syria described in Charge 8, Wilden transferred a diaphragm pump, an item subject to the Regulations, from the United States to Syria knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pump required a Department of Commerce export license and that a license for the export would not be obtained. In so doing, Wilden committed one violation of Section 764.2(e) of the Regulations.

Charge 10 15 C.F.R. § 764.2(a) - Exporting Pumps to People's Republic of China Without the Required Department of Commerce License

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on or about April 5, 2002, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to the People's Republic of China (PRC) without obtaining the Department of Commerce license required by Section 742.2 of the Regulations. In so doing, Wilden committed one violation of Section 764.2(a) of the Regulations.

⁵"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

Charge 11 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to People's Republic of China Knowing that a Violation of the Regulations was to Occur

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the export to the PRC described in Charge 10, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to the PRC knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required a Department of Commerce export license and that a license for the export had not been obtained. In so doing, Wilden committed one violation of Section 764.2(e) of the Regulations.

Charges 12-33 15 C.F.R. § 764.2(a) - Exporting Pumps to Israel and the United Arab Emirates Without the Required Department of Commerce Licenses

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, on 22 occasions between on or about March 14, 2001, through on or about October 10, 2003, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN⁶ 2B350i.4), from the United States to Israel and the United Arab Emirates (UAE) without obtaining the Department of Commerce licenses required by Section 742.2 of the Regulations. In so doing, Wilden committed 22 violations of Section 764.2(a) of the Regulations.

Charges 34-52 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Israel and the United Arab Emirates Knowing that a Violation of the Regulations was to Occur

In connection with nineteen of the exports to Israel and the UAE referenced above, and as described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, Wilden transferred diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to Israel and the UAE knowing that violations of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required Department of Commerce export licenses and that licenses for the exports had not been obtained. In so doing, Wilden committed nineteen violations of Section 764.2(e) of the Regulations.

Charges 53-71 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Israel and the United Arab Emirates

In connection with nineteen of the exports to the UAE and Israel referenced above, and as described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, Wilden filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government for the export of diaphragm pumps to the UAE and Israel that falsely stated that the pumps qualified for export from the United States as NLR ("no license required"). These representations were false because the pumps were classified as ECCN 2B350i.4 and licenses were required for export pursuant to Section 742.2 of the Regulations. In so doing, Wilden committed nineteen violations of Section 764.2(g) of the Regulations.

Accordingly, Wilden 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 \$11,000 per violation;⁷

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

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

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Wilden have a proposal to settle this case, Wilden or its representative should transmit it 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, Wilden's answer must be filed in accordance with

⁷See 15 C.F.R. §6.4(a)(4) (2004).

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 Wilden'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 Wilden may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Michael Turner
Director
Office of Export Enforcement

Enclosure

Schedule A--Violations
Wilden Pump and Engineering Company

| <u>SHIP. #</u> | <u>DATE (ON OR ABOUT)</u> | <u>COMMODITY</u> | <u>COUNTRY</u> | <u>VIOLATIONS</u> | <u>COUNTS</u> |
|----------------|-------------------------------|------------------|----------------|--|---------------|
| 1 | 11/22/00 | Diaphragm pumps | Iran | 15 C.F.R. Section 764.2(a) | 1, 3, 4 |
| 2 | 8/16/01 | Diaphragm pumps | Iran | 15 C.F.R. Section 764.2(a), (e), (g) | 2, 5, 6, 7 |
| 3 | 10/3/01 | Diaphragm pumps | Syria | 15 C.F.R. Section 764.2 (a), (e) | 8, 9 |
| 4 | 4/5/02 | Diaphragm pumps | China | 15 C.F.R. Section 764.2 (a), (e) | 10, 11 |
| 5 | 3/14/01 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a) | 12 |
| 6 | 4/27/01 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a) | 13 |
| 7 | 4/27/01 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a) | 14 |
| 8 | 5/10/02 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 15, 34, 53 |
| 9 | 6/26/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 16, 35, 54 |
| 10 | 7/15/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 17, 36, 55 |
| 11 | 8/13/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 18, 37, 56 |
| 12 | 8/30/02 | Diaphragm pumps | Israel | 15 C.F.R. Section | 19, 38, 57 |

| <u>SHIP. #</u> | <u>DATE (ON OR ABOUT)</u> | <u>COMMODITY</u> | <u>COUNTRY</u> | <u>VIOLATIONS</u> | <u>COUNTS</u> |
|----------------|-------------------------------|------------------|----------------|--|---------------|
| | | | | 764.2 (a), (e), (g) | |
| 13 | 9/17/02 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 20, 39, 58 |
| 14 | 10/11/02 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 21, 40, 59 |
| 15 | 11/7/02 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 22, 41, 60 |
| 16 | 11/25/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 23, 42, 61 |
| 17 | 12/10/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 24, 43, 62 |
| 18 | 12/23/02 | Diaphragm pumps | Israel | 15 C.F.R. Section 764.2 (a), (e), (g) | 25, 44, 63 |
| 19 | 2/8/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 26, 45, 64 |
| 20 | 4/3/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 27, 46, 65 |
| 21 | 4/19/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 28, 47, 66 |
| 22 | 5/20/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 29, 48, 67 |
| 23 | 6/26/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 30, 49, 68 |
| 24 | 8/20/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 31, 50, 59 |
| 25 | 9/23/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 32, 51, 70 |

| <u>SHIP. #</u> | <u>DATE</u> <u>(ON OR ABOUT)</u> | <u>COMMODITY</u> | <u>COUNTRY</u> | <u>VIOLATIONS</u> | <u>COUNTS</u> |
|----------------|-------------------------------------|------------------|----------------|--|---------------|
| 26 | 10/10/03 | Diaphragm pumps | UAE | 15 C.F.R. Section 764.2 (a), (e), (g) | 33, 52, 71 |

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

.....
In the Matter of:)
)
Wilden Pump and Engineering Co., LLC.)
22069 Van Buren St.)
Grand Terrace, CA 92313)
)
Respondent.)
.....

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Respondent, Wilden Pump and Engineering Co., LLC ("Wilden"), 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 (2005)) ("Regulations"),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),²

¹ The violations charged occurred between 2000 and 2003. The Regulations governing the violations at issue are found in the 2000-2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2003)). The 2005 Regulations establish the procedures that apply to this matter.

² From November 13, 2000 through August 20, 2001, the Act was in effect. 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 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

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

WHEREAS, BIS has issued a proposed charging letter to Wilden that alleged that Wilden committed 71 violations of the Regulations, specifically:

1. *Two Violations of 15 C.F.R. § 764.2(a) - Exporting Pumps to Iran Without the Required U.S. Government Authorizations:* On two occasions on or about November 22, 2000, and on or about August 7, 2001, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (EAR 99³) and the Iranian Transactions Regulations⁴, from the United States to Iran through the United Arab Emirates ("UAE") without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from the Office of Foreign Assets Control, U.S. Department of Treasury ("OFAC") before the pumps could be exported to Iran.
2. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Iran:* In connection with the two exports to Iran described above, Wilden filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government that stated that the pumps qualified for export from the United States as NLR ("no license required"). These statements were false because, as described above, the

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

pumps were subject to the Regulations and the Iranian Transaction Regulations and required prior authorization from OFAC pursuant to Section 746.7 of the Regulations.

3. *Two Charges of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Regarding Country of Ultimate Destination:* In connection with the two exports of diaphragm pumps to Iran described above, Wilden filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the country of ultimate destination for the pumps was the UAE. These two representations were false, as the actual country of ultimate destination for the pumps described in the SEDs was Iran.
4. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Iran Knowing that a Violation of the Regulations was to Occur:* In connection with the August 7, 2001 export to Iran, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required authorization from the U.S. Government and that authorization for the export would not be obtained.
5. *One Violation of 15 C.F.R. § 764.2(a) - Exporting Pump to Syria Without the Required Department of Commerce License:* On or about October 3, 2001, Wilden engaged in conduct prohibited by the Regulations by exporting a diaphragm pump,

an item subject to the Regulations (ECCN⁵ 2B350i.4), from the United States to Syria without obtaining the Department of Commerce license required by Section 742.2 of the Regulations.

6. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pump to Syria Knowing that a Violation of the Regulations was to Occur:* In connection with the export to Syria described above, Wilden transferred a diaphragm pump, an item subject to the Regulations, from the United States to Syria knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pump required a Department of Commerce export license and that a license for the export would not be obtained.
7. *One Violation of 15 C.F.R. § 764.2(a) - Exporting Pumps to People's Republic of China Without the Required Department of Commerce License:* On or about April 5, 2002, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to the People's Republic of China (PRC) without obtaining the Department of Commerce license required by Section 742.2 of the Regulations.
8. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to People's Republic of China Knowing that a Violation of the Regulations was to Occur:* In

⁵"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § 774.

connection with the export to the PRC described above, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to the PRC knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required a Department of Commerce export license and that a license for the export had not been obtained.

9. *22 Violations of 15 C.F.R. § 764.2(a) - Exporting Pumps to Israel and the United Arab Emirates Without the Required Department of Commerce Licenses:* On 22 occasions between on or about March 14, 2001, through on or about October 10, 2003, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN⁶ 2B350i.4), from the United States to Israel and the United Arab Emirates (UAE) without obtaining the Department of Commerce licenses required by Section 742.2 of the Regulations.
 10. *19 Violations of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Israel and the United Arab Emirates Knowing that a Violation of the Regulations was to Occur:* Wilden transferred diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to Israel and the UAE knowing that violations of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required Department of Commerce export licenses and that licenses for the exports had not been obtained.
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11. *19 Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Israel and the United Arab Emirates:* Wilden filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government for the export of diaphragm pumps to the UAE and Israel that falsely stated that the pumps qualified for export from the United States as NLR ("no license required"). These representations were false because the pumps were classified as ECCN 2B350i.4 and licenses were required for export pursuant to Section 742.2 of the Regulations.

WHEREAS, Wilden 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;

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

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

a. Wilden shall be assessed a civil penalty in the amount of \$700,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the 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, License Exception, permission, or privilege granted, or to be granted, to Wilden.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Wilden's export privileges for a period of one year from the date of imposition of the penalty.

c. For a period of three years from the date of entry of the Order, Wilden, its successors or assigns, and, when acting for or on behalf of Wilden, its officers, representatives, agents, or employees ("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 on the Commerce Control List (Control

List)⁷, or in any other activity that is subject to the Regulations involving an item that is on the Control List, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document in connection with an item that is on the Control List;
 - 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 on the Control List, or in any other activity that is subject to the Regulations involving an item that is on the Control List; or
 - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is on the Control List, or in any other activity that is subject to the Regulations involving an item that is on the Control List.
- d. BIS agrees that, as authorized by Section 766.18 (c) of the Regulations, the three year denial period set forth in paragraph 2.c. shall be suspended in its entirety for a period of two years from the entry of the appropriate Order, and shall thereafter be waived, provided that during the period of suspension, Wilden has committed no violation of the Act or any regulation, order or license issued thereunder, and, provided further that Wilden has made timely payment of the \$700,000 civil penalty assessed pursuant to this Agreement and the Order.

⁷The Commerce Control List is set forth in Supp. No. 1 to part 774 of the EAR. "EAR99" items are subject to the EAR but not "specified" on the Control List. See 15 C.F.R. § 774.1.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Wilden 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 the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) 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 \$700,000 civil penalty, BIS will not initiate any further administrative proceeding against Wilden in connection with any violation of the Act or the Regulations arising out of the transactions detailed 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.

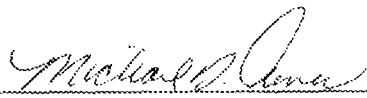
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department 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.

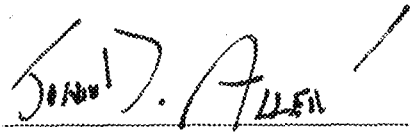
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

WILDEN PUMP AND ENGINEERING CO, LLC.



Mike D. Turner
Director
Office of Export Enforcement



John D. Allen
President and Chief Operating Officer

Date: 04/26/2005

Date: 21 APRIL, 2005

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

.....
In the Matter of:)
)
Wilden Pump and Engineering Co., LLC.)
22069 Van Buren St.)
Grand Terrace, CA 92313)
)
Respondent.)
.....

ORDER RELATING TO WILDEN PUMP AND ENGINEERING CO., LLC.

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Wilden Pump and Engineering Co., LLC. ("Wilden") of its intention to initiate an administrative proceeding against Wilden pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("Regulations"),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),² by issuing a proposed charging letter to Wilden that alleged that Wilden committed 71 violations of the Regulations. Specifically, the charges are:

¹ The violations charged occurred between 2000 and 2003. The Regulations governing the violations at issue are found in the 2000-2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2000-2003)). The 2005 Regulations establish the procedures that apply to this matter.

² On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

1. *Two Violations of 15 C.F.R. § 764.2(a) - Exporting Pumps to Iran Without the Required U.S. Government Authorizations:* On two occasions on or about November 22, 2000, and on or about August 7, 2001, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (EAR 99³) and the Iranian Transactions Regulations⁴, from the United States to Iran through the United Arab Emirates (“UAE”) without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”) before the pumps could be exported to Iran.
2. *Two Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Iran:* In connection with the two exports to Iran described above, Wilden filed or caused to be filed Shipper’s Export Declarations (“SEDs”), export control documents, with the U.S. Government that stated that the pumps qualified for export from the United States as NLR (“no license required”). These statements were false because, as described above, the pumps were subject to the Regulations and the Iranian Transaction Regulations and required prior authorization from OFAC pursuant to Section 746.7 of the Regulations.

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

3. *Two Charges of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Regarding Country of Ultimate Destination:* In connection with the two exports of diaphragm pumps to Iran described above, Wilden filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the country of ultimate destination for the pumps was the UAE. These two representations were false, as the actual country of ultimate destination for the pumps described in the SEDs was Iran.
4. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Iran Knowing that a Violation of the Regulations was to Occur:* In connection with the August 7, 2001 export to Iran, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to Iran knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required authorization from the U.S. Government and that authorization for the export would not be obtained.
5. *One Violation of 15 C.F.R. § 764.2(a) - Exporting Pump to Syria Without the Required Department of Commerce License:* On or about October 3, 2001, Wilden engaged in conduct prohibited by the Regulations by exporting a diaphragm pump, an item subject to the Regulations (ECCN⁵ 2B350i.4), from the

⁵“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.
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United States to Syria without obtaining the Department of Commerce license required by Section 742.2 of the Regulations.

6. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pump to Syria Knowing that a Violation of the Regulations was to Occur:* In connection with the export to Syria described above, Wilden transferred a diaphragm pump, an item subject to the Regulations, from the United States to Syria knowing that a violation of the Regulations would occur. At all times relevant thereto, Wilden knew that the pump required a Department of Commerce export license and that a license for the export would not be obtained.
7. *One Violation of 15 C.F.R. § 764.2(a) - Exporting Pumps to People's Republic of China Without the Required Department of Commerce License:* On or about April 5, 2002, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to the People's Republic of China (PRC) without obtaining the Department of Commerce license required by Section 742.2 of the Regulations.
8. *One Violation of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to People's Republic of China Knowing that a Violation of the Regulations was to Occur:* In connection with the export to the PRC described above, Wilden transferred diaphragm pumps, items subject to the Regulations, from the United States to the PRC knowing that a violation of the Regulations would occur. At all times

relevant thereto, Wilden knew that the pumps required a Department of Commerce export license and that a license for the export had not been obtained.

9. *22 Violations of 15 C.F.R. § 764.2(a) - Exporting Pumps to Israel and the United Arab Emirates Without the Required Department of Commerce Licenses:* On 22 occasions between on or about March 14, 2001, through on or about October 10, 2003, Wilden engaged in conduct prohibited by the Regulations by exporting diaphragm pumps, items subject to the Regulations (ECCN⁶ 2B350i.4), from the United States to Israel and the United Arab Emirates (UAE) without obtaining the Department of Commerce licenses required by Section 742.2 of the Regulations.
10. *19 Violations of 15 C.F.R. § 764.2(e) - Unlicensed Transfer of Pumps to Israel and the United Arab Emirates Knowing that a Violation of the Regulations was to Occur:* Wilden transferred diaphragm pumps, items subject to the Regulations (ECCN 2B350i.4), from the United States to Israel and the UAE knowing that violations of the Regulations would occur. At all times relevant thereto, Wilden knew that the pumps required Department of Commerce export licenses and that licenses for the exports had not been obtained.
11. *19 Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Authority to Export to Israel and the United Arab Emirates:* Wilden filed or caused to be filed Shipper's Export Declarations ("SEDS"), export control documents, with the U.S. Government for the export of diaphragm pumps to the UAE and Israel that falsely stated that the pumps

qualified for export from the United States as NLR ("no license required"). These representations were false because the pumps were classified as ECCN 2B350i.4 and licenses were required for export pursuant to Section 742.2 of the Regulations.

WHEREAS, BIS and Wilden 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, that Wilden shall be assessed a civil penalty of \$700,000 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, Wilden 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 Wilden. Accordingly, if Wilden should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order

denying all of Wilden's export privileges for a period of one year from the date of entry of this Order.

FOURTH, for a period of three years from the date of entry of the Order, Wilden Pump and Engineering Co., LLC, 22069 Van Buren St., Grand Terrace, CA 92313, its successors or assigns, and when acting for or on behalf of Wilden, its officers, representatives, agents, or employees ("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 on the Commerce Control List (Control List)⁷, or in any other activity that is subject to the Regulations involving an item that is on the Control List, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document in connection with any item that is on the Control List;
- 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 that is subject to the Regulations involving any item exported or to be exported from the United States that is on the Control List, or in any other activity that is subject to the Regulations involving an item that is on the Control List; or

⁷The Commerce Control List is set forth in Supp. No. 1 to part 774 of the EAR. "EAR99" items are subject to the EAR but not "specified" on the Control List. *See* 15 C.F.R. § 774.1.
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C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is on the Control List, or in any other activity that is subject to the Regulations involving an item that is on the Control List.

FIFTH, 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 that is on the Control List;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item on the Control List 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 on the Control List that has been exported from the United States;
- D. Obtain from the Denied Person in the United States any item on the Control List 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 on the Control List 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 on the Control List that has been or will be exported from the

United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

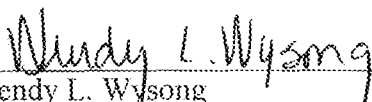
SIXTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S-origin technology.

SEVENTH, 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 Wilden 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.

EIGHTH, that, as authorized by Section 766.18 (c) of the Regulations, the denial period set forth above shall be suspended in its entirety for two years from the date of this Order, and shall thereafter be waived, provided that during the period of suspension, Wilden has committed no violation of the Act or any regulation, order or license issued thereunder.

NINTH, 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.



Wendy L. Wysong
Acting Assistant Secretary of
Commerce for Export Enforcement

Entered this 27th day of April 2005.