

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

In the Matter of:	)
	)
Bell Lumber and Pole Company	)
P.O. Box 120786	)
New Brighton, MN 55112	)
	)
Respondent.	)
	)

ORDER RELATING TO BELL LUMBER AND POLE COMPANY

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Bell Lumber and Pole Company ("Bell") of its intention to initiate an administrative proceeding against Bell pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) ("Regulations"),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup> by

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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 (2005). The charged violations occurred during the 2000-2003 period. 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 set forth the procedures that apply to this matter.

<sup>2</sup> 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., p. 783 (2002)), as extended by the Notice of August 2, 2005 (70 *Fed. Reg.* 45273, August 5, 2005), has continued the Regulations in effect under the IEEPA.

issuing a proposed charging letter to Bell that alleged that Bell committed 26 violations of the Regulations. Specifically, the charges are:

1. *26 Violations of 15 C.F.R. § 764.2(a) -Exporting Items Without the Required Department of Commerce License:* On 26 occasions between on or about April 27, 2000 and November 18, 2003, Bell engaged in conduct prohibited by the Regulations by exporting utility poles composed of unprocessed Western Red Cedar, items subject to the Regulations (ECCN<sup>3</sup> 1C988), to Canada for further processing without obtaining the Department of Commerce licenses required by Section 754.4(a) of the Regulations.

WHEREAS, BIS and Bell 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 a civil penalty of \$10,400 is assessed against Bell, 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,

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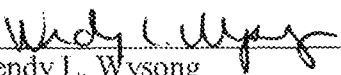
<sup>3</sup>“ECCN” refers to “Export Control Classification Number.” See Supp. 1 to 15 C.F.R. § 774.

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

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

Entered this 21st day of September 2005.

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

In the Matter of:

Bell Lumber and Pole Company  
P.O. Box 120786  
New Brighton, MN 55112

Respondent.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Respondent, Bell Lumber and Pole Company ("Bell"), 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"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup>

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The charged violations occurred during the 2000-2003 period. 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 set forth the procedures that apply to this matter.

<sup>2</sup> 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., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to Bell that alleged that Bell committed 26 violations of the Regulations, specifically:

1. *26 Violations of 15 C.F.R. § 764.2(a) -Exporting Items Without the Required Department of Commerce License:* On 26 occasions between on or about April 27, 2000 and November 18, 2003, Bell engaged in conduct prohibited by the Regulations by exporting utility poles composed of unprocessed Western Red Cedar, items subject to the Regulations (ECCN<sup>3</sup> 1C988), to Canada for further processing without obtaining the Department of Commerce licenses required by Section 754.4(a) of the Regulations.

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

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

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

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

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<sup>3</sup>"ECCN" refers to "Export Control Classification Number." See Supp. 1 to 15 C.F.R. § Settlement Agreement Bell.  
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NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Bell in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

a. Bell shall be assessed a civil penalty in the amount of \$10,400 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.

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 Bell.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Bell'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, Bell 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 \$10,400 civil penalty, BIS will not initiate any further administrative proceeding against Bell 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.

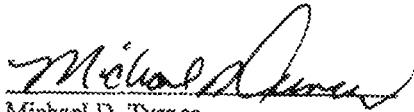
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

BELL LUMBER AND POLE COMPANY



Michael D. Turner  
Director  
Office of Export Enforcement



K.E. Stewart  
Director

Date: 9/19/05

Date: Sept 1 2005



CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Bell Lumber and Pole Company  
P.O. Box 120786  
New Brighton, MN 55112

*Attention: K.E. Stewart, Director*

Dear Mr. Stewart:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that Bell Lumber and Pole Company of New Brighton, Minnesota ("Bell") violated the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act"),<sup>2</sup> on 26 occasions. Specifically, BIS charges that Bell committed the following violations:

**Charges 1-26            15 C.F.R. § 764.2(a) - Exporting Items Without the Required  
Department of Commerce Licenses**

As described in greater detail in the Schedule of Violations, which is enclosed herewith and incorporated herein by reference, on 26 occasions between on or about April 27, 2000 and November 18, 2003, Bell engaged in conduct prohibited by the Regulations by exporting utility

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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 (2004). The charged violations occurred during the 2000-2003 period. 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 set forth the procedures that apply to this matter.

<sup>2</sup> 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. 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 6, 2004 (69 Fed. Reg. 48763 (August 10, 2004)), continues the Regulations in effect under IEEPA.

poles composed of unprocessed Western Red Cedar, items subject to the Regulations (ECCN<sup>3</sup> 1C988), to Canada for further processing without obtaining the Department of Commerce licenses required by Section 754.4(a) of the Regulations. The violations are further described in the schedule of violations which is attached hereto and incorporated herein by reference. In so doing, Bell committed 26 violations of Section 764.2(a) of the Regulations.

Accordingly, Bell is hereby notified that an administrative proceeding is instituted against it pursuant to 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 \$11,000 per violation;<sup>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Bell is further notified that it is entitled to an agency hearing on the record if Bell files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Bell 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 Bell have a proposal to settle this case, 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, Bell's answer must be filed in accordance with the instructions set forth in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street

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<sup>3</sup>"ECCN" refers to "Export Control Classification Number." *See* Supp. 1 to 15 C.F.R. § 774.

<sup>4</sup> *See* 15 C.F.R. § 6.4(a)(2).

Baltimore, Maryland 21202-4022

In addition, a copy of Bell'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  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

Parvin R. Huda is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through her. Ms. Huda may be contacted by telephone at (202) 482-5301.

Sincerely,

Acting Director  
Office of Export Enforcement

### BELL Schedule of Violations

CHARGE NUMBER	DATE OF Violation	DESTINATION	INVOICE VALUE	POLES SHIPPED
1	April 27, 2000	Canada	\$30,323.16	28
2	April 28, 2000	Canada	\$30,323.16	28
3	March 5, 2001	Canada	\$13,084.00	5
4	August 27, 2001	Canada	\$30,836.08	22
5	August 29, 2001	Canada	\$30,836.08	22
6	August 30, 2001	Canada	\$30,836.08	22
7	February 13, 2002	Canada	\$94,545.00	99
8	April 24, 2002	Canada	\$40,916.00	40
9	June 10, 2002	Canada	\$10,575.86	46
10	June 10, 2002	Canada	\$16,157.15	90
11	June 10, 2002	Canada	\$16,500.00	100
12	June 12, 2002	Canada	\$16,170.00	98
13	June 12, 2002	Canada	\$14,866.28	113
14	June 12, 2002	Canada	\$21,080.50	50
15	June 17, 2002	Canada	\$10,116.04	44
16	July 10, 2002	Canada	\$10,690.45	85
17	July 15, 2002	Canada	\$7,537.53	77
18	July 16, 2002	Canada	\$8,652.66	102
19	July 17, 2002	Canada	\$9,181.41	105
20	July 24, 2002	Canada	\$10,265.42	71
21	February 13, 2003	Canada	\$9,637.20	45
22	February 27, 2003	Canada	\$9,637.20	45
23	April 5, 2003	Canada	\$8,995.10	42
24	April 5, 2003	Canada	\$11,323.56	42
25	November 18, 2003	Canada	\$14,313.20	55
26	November 18, 2003	Canada	\$12,751.76	49