

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

In the Matter of:)
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Quality Penn Products, Inc.)
2015 West Allegheny Avenue)
Philadelphia, PA 19132)
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)
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Respondent)

ORDER RELATING TO QUALITY PENN PRODUCTS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Quality Penn Products, Inc. (“Quality Penn”), of its intention to initiate an administrative proceeding against Quality Penn pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a proposed charging letter to Quality Penn that alleged that Quality Penn committed two violations of the Regulations. Specifically, these charges are:

¹ The violations alleged to have been committed occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2007 Regulations establish the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46,137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Charge 1 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

On or about November 23, 2005, Quality Penn engaged in conduct prohibited by the Regulations by ordering the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,³ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. In so doing, Quality Penn committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

On or about November 23, 2005, Quality Penn ordered the export of an item subject to the Regulations with knowledge that a violation of the Regulations, or a license would occur. Specifically, Quality Penn ordered the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,⁴ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. Quality Penn had previously applied for and obtained a license for an earlier shipment of wood pallets to Cuba, indicating that Quality Penn had knowledge of the Regulations. Quality Penn nonetheless failed to obtain a license for the shipment on or about November 25, 2005. In so doing, Quality Penn committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Quality Penn 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 \$6,000 is assessed against Quality Penn, which shall be paid to the U.S. Department of Commerce within one year from the date of entry of this Order in four quarterly installments with a payment of \$1,500 due on or before February 1, 2008, an additional payment of \$1,500 due on or before May 1, 2008, an additional payment of \$1,500 due on or before August 1, 2008, and a final payment of

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

⁴ See *infra* note 3.

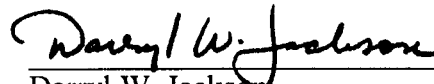
\$1,500 due on or before November 1, 2008. Payment shall be made in the manner specified in the attached instructions.

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



Darryl W. Jackson
Assistant Secretary of Commerce
for Export Enforcement

Entered this 21ST day of December, 2007.

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

In the Matter of:)
)
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Quality Penn Products, Inc.)
2015 West Allegheny Avenue)
Philadelphia, PA 19132)
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Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Quality Penn Products, Inc. (“Quality Penn”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2007)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),²

¹ The violations alleged to have been committed occurred in 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2001-2005)). The 2007 Regulations establish the procedures that apply to this matter.

² Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 Fed. Reg. 46137 (Aug. 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

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

WHEREAS, BIS has issued a proposed charging letter to Quality Penn that alleged that Quality Penn is liable for 2 violations of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

On or about November 23, 2005, Quality Penn engaged in conduct prohibited by the Regulations by ordering the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,³ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. In so doing, Quality Penn committed one violation of Section 764.2(a) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

On or about November 23, 2005, Quality Penn ordered the export of an item subject to the Regulations with knowledge that a violation of the Regulations, or a license would occur. Specifically, Quality Penn ordered the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,⁴ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. Quality Penn had previously applied for and obtained a license for an earlier shipment of wood pallets to Cuba, indicating that Quality Penn had knowledge of the Regulations. Quality Penn nonetheless failed to obtain a license for the shipment on or about November 25, 2005. In so doing, Quality Penn committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, Quality Penn 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, Quality Penn 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;

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

⁴ See *infra* note 3.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Quality Penn, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Quality Penn in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
 - a) Quality Penn shall be assessed a civil penalty in the amount of \$6,000, all of which shall be paid to the U.S. Department of Commerce in four quarterly installments, with a payment of \$1,500 due on or before February 1, 2008, an additional payment of \$1,500 due on or before May 1, 2008, an additional payment of \$1,500 due on or before August 1, 2008, and a final payment of \$1,500 due on or before November 1, 2008.

b) The timely payment of the civil penalty agreed to in paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Quality Penn. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Quality Penn'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, Quality Penn hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$6,000 civil penalty, BIS will not initiate any further administrative proceeding against Quality Penn in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no

Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

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

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

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



Tom Madigan
Acting Director
Office of Export Enforcement

Date: 12/20/2007

QUALITY PENN PRODUCTS, INC.



Frank Rouco
President

Date: 12/19/2007

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Quality Penn Products, Inc.
2015 West Allegheny Avenue
Philadelphia, PA 19132

*Attn: Frank Rouco
Owner and President*

Dear Mr. Rouco:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Quality Penn Products, Inc. of Philadelphia, PA (“Quality Penn”) has committed two violations of the Export Administration Regulations (the “Regulations”),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that Quality Penn committed the following violations:

Charge 1 15 C.F.R. § 764.2(a) – Engaging in Prohibited Conduct

On or about November 23, 2005, Quality Penn engaged in conduct prohibited by the Regulations by ordering the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,³ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. In so doing, Quality Penn committed one violation of Section 764.2(a) of the Regulations.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2006). The charged violation occurred during 2005. The Regulations governing the violations at issue are found in the 2005 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2005)). The 2006 Regulations establish 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 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2005).

Charge 2 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

On or about November 23, 2005, Quality Penn ordered the export of an item subject to the Regulations with knowledge that a violation of the Regulations, or a license would occur. Specifically, Quality Penn ordered the export of 1,000 pallets of wood, items classified under the Regulations as EAR99,⁴ without the authorization from the Department of Commerce required by Section 746.2 of the Regulations. Quality Penn had previously applied for and obtained a license for an earlier shipment of wood pallets to Cuba, indicating that Quality Penn had knowledge of the Regulations. Quality Penn nonetheless failed to obtain a license for the shipment on or about November 25, 2005. In so doing, Quality Penn committed one violation of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, Quality Penn 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 \$11,000 per violation;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Quality Penn 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. Quality Penn 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 Quality Penn have a proposal to settle this case, Quality Penn or its representative should transmit it to the attorney representing BIS named below.

⁴ *See infra* note 3.

⁵ *See* 15 C.F.R. § 6.4(a)(4).

Quality Penn Products, Inc.
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, Quality Penn'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 Quality Penn's answer must be served on BIS at the following address:

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

Adrienne Frazier is the attorney representing BIS in this case; any communications that Quality Penn may wish to have concerning this matter should occur through her. Ms. Frazier may be contacted by telephone at (202) 482-5301, by fax at (202) 482-0085, or via email at afrazier@bis.doc.gov.

Sincerely,

Michael D. Turner
Director
Office of Export Enforcement