



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

In the Matter of:)
)
Humane Restraint, Inc.)
912 Bethel Circle)
Waunakee, WI 53597)
)
Respondent)

ORDER RELATING TO HUMANE RESTRAINT, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Humane Restraint, Inc. of Waunakee, WI (“HR”), of its intention to initiate an administrative proceeding against HR 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 HR that alleged that HR committed 32 violations of the Regulations. Specifically, these charges are:

Charges 1-27 15 C.F.R. § 764.2(a) - Engaging in Prohibited Conduct by Exporting Various Restraint Devices Without the Required Government Authorizations

On 27 occasions between on or about April 10, 2006 and on or about August 8, 2008, HR engaged in conduct prohibited by the Regulations by exporting various restraint devices, including, but not limited to, strait jackets, bed restraints, and wrist and ankle restraints, items subject to the Regulations, classified under Export Control Classification Number (“ECCN”)

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2012). The charged violations occurred in 2006-2008. The Regulations governing the violations at issue are found in the 2006-2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2006-2008)). The 2012 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 12, 2011 (76 Fed. Reg. 50661 (Aug. 16, 2011)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et. seq.*).

0A982, controlled for Crime Control reasons, and valued at approximately \$14,697, from the United States to Germany, Greece, Hungary, Ireland, New Zealand, South Korea, Taiwan, and the United Kingdom without the Department of Commerce licenses required by Section 742.7(a) of the Regulations. In so doing, HR committed 27 violations of Section 764.2(a) of the Regulations.

Charge 28 15 C.F.R. §764.2(c) – Attempting to Export a Strait Jacket Without the Required Government Authorization

On or about November 28, 2007, HR attempted a violation of the Regulations. Specifically, HR attempted to export a strait jacket, an item subject to the Regulations, classified under ECCN 0A982, controlled for Crime Control reasons, and valued at approximately \$112, from the United States to the United Kingdom without the Department of Commerce license required by Section 742.7(a) of the Regulations. The item was seized by U.S. Customs and Border Patrol (“CBP”) prior to leaving the United States. In so doing, HR committed one violation of Section 764.2(c) of the Regulations.

Charges 29-32 15 C.F.R. § 764.2(e)- Acting With Knowledge of a Violation

On four occasions between on or about January 2, 2008 and on or about August 7, 2008, HR sold items exported or to be exported from the United States with knowledge that a violation of the Regulations was about to occur or was intended to occur in connection with the items. Specifically, on four occasions HR sold strait jackets and an ambulatory restraint kit, items classified under ECCN 0A982, controlled for Crime Control reasons, and valued at approximately \$1,818. These items were exported or to be exported from the United States to Australia, Germany, and Taiwan. HR knew or should have known that a Department of Commerce export license was required to export these items because, *inter alia*, on or about December 10, 2007, before these violations occurred, HR was informed of licensing requirements by CBP, which had stopped and later seized HR’s November 28, 2007 attempted unlicensed export, described in Charge 28, above. In so doing, HR committed four violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and HR 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, HR shall be assessed a civil penalty in the amount of \$465,000. HR shall pay the U.S. Department of Commerce in four installments of: \$12,500 not later than August 1, 2012;

\$12,500 not later than February 1, 2013; \$12,500 not later than August 1, 2013; and \$12,500 not later than February 1, 2014. If any of the four installment payments is not fully and timely made, any remaining scheduled installment payments and any suspended penalty shall become due and owing immediately. Payment of the remaining \$415,000 shall be suspended for a period of two years from the date of issuance of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, HR has committed no violation of the Act, or any regulation, order, or license issued thereunder and has made full and timely payment of \$50,000 as set forth above.

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 in by the due date specified herein, HR will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to HR. Accordingly, if HR should fail to pay the civil penalty in a full and timely manner, the undersigned may issue an Order denying all of HR's export privileges under the Regulations for a period of one year from the of failure to make such payment.

FOURTH, that, except as provided in paragraph SIXTH of this Order, for a period of two (2) years from the date of issuance of the Order, Humane Restraint, Inc., with a last known address of 912 Bethel Circle, Waunakee, WI 53597, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, representatives, or agents (hereinafter

collectively referred to as “Denied Person”) may not, directly or indirectly, participate 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 to any destination other than Canada that is subject to the Regulations, or in any other activity subject to the Regulations that involves a destination other than Canada, including, but not limited to:

- A. Applying for or obtaining any license, or License Exception that involves an export to any destination other than Canada ;
- 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 involving any item exported or to be exported from the United States to any destination other than Canada that is subject to the Regulations, or in any other activity subject to the Regulations that involves a destination other than Canada; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States to any destination other than Canada that is subject to the Regulations, or in any other activity subject to the Regulations that involves a destination other than Canada.

FIFTH, that, except as provided in paragraph SEVENTH of this Order, 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 subject to the Regulations to any destination other than Canada;
- B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the

Regulations that has been or will be exported from the United States to any destination other than Canada, 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 subject to the Regulations that has been exported from the United States to any destination other than Canada;
- D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States to any destination other than Canada; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States to any destination other than Canada 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 subject to the Regulations that has been or will be exported from the United States to any destination other than Canada. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

SIXTH, that this Order does not prohibit HR from exporting items from the United States under a previously approved U.S. Department of Commerce export license that is valid as of the date of this Order. Any exports made under this provision shall be subject to all terms, conditions and expiration dates contained in the underlying export license.

SEVENTH, that this Order does not prohibit freight forwarders, carriers, consignees or end users from participating in export transactions authorized by a previously approved U.S.

Department of Commerce export license issued to HR that is valid as of the date of this Order.

Any actions taken under this provision shall be subject to all terms and conditions of the underlying export license.

EIGHTH, 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 the Denied Person 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.

NINTH, that the Proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

TENTH, that this Order shall be served on HR, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.

David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 9th day of July, 2012.