

JUL - 6 1999



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Export Administration
Washington D C 20230

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Thane-Coat, Inc.
12725 Royal Drive
Stafford, Texas 77477

Gentlemen/Ladies:

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), hereby charges that Thane-Coat, Inc. (hereinafter "Thane-Coat") has violated the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (hereinafter the "Act"), as set forth below.

Facts constituting violations:

Charge 1

Beginning in June 1994 and continuing through about July 1996, Thane-Coat conspired with Jerry Vernon Ford, Preston John

The alleged violations occurred during 1994, 1995, and 1996. The Regulations governing the violations at issue are found in the 1994, 1995 and 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 and 1995) and 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (hereinafter "the former Regulations"). The March 25, 1996 Federal Register publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 Federal Register publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the violations that BXA alleges occurred. The reorganized and restructured Regulations establish the procedures that apply to this matter.

The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)).



Engebretson, TIC, Ltd., and Export Materials, Inc. to bring about acts that constituted violations of the Act, or any regulation, order, or license issued thereunder. The purpose of the conspiracy was for Thane-Coat and the others to export U.S.-origin commodities to Libya, a country subject to a comprehensive economic sanctions program. To accomplish their purpose, the conspirators devised and employed a scheme to export U.S.-origin items from the United States through the United Kingdom to Libya, without applying for and obtaining the export authorizations that the conspirators knew or had reason to know were required under U.S. law, including the Regulations. See, 15 C.F.R. § 746.4, previously codified at 15 C.F.R. § 785.7 of the former Regulations, and 15 C.F.R. § 772.1 of the former Regulations. BXA alleges that, by conspiring or acting in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Act, or any regulation, order or license issued thereunder, Thane-Coat violated Section 787.3(b) (redesignated as Section 787A.3(b) on March 25, 1996) of the former Regulations.

Charges 2-75

In furtherance of the conspiracy described in Charge 1 above and as is described in greater detail in Schedule A, which is attached hereto and incorporated herein by reference, on 37 separate occasions between on or about February 12, 1995 and on or about April 25, 1996, Thane-Coat, as a co-conspirator, exported polyurethane (isocyanate/polyol) and polyether polyurethane (hereinafter "pipe coating materials") from the United States to Libya, without obtaining from the Department the validated export licenses that Thane-Coat knew or had reason to know were required under Section 772.1(b) (redesignated as Section 772A.1(b) on March 25, 1996) of the former Regulations. BXA alleges that, by exporting U.S.-origin commodities to any person or to any destination in violation of or contrary to the provisions of the Act, or any regulation, order, or license issued thereunder, Thane-Coat, as a co-conspirator, violated Section 787.6 or Section 787A.6 of the former Regulations in connection with each shipment. Specifically, BXA alleges that Thane-Coat, as a co-conspirator, committed 32 violations of Section 787.6 and five violations of Section 787A.6 of the former Regulations, for a total of 37 violations.

BXA also alleges that, by selling, transferring, or forwarding commodities exported or to be exported from the United States with knowledge or reason to know that a violation of the Act, or any regulation, order, or license issued thereunder occurred, was about to occur, or was intended to occur with respect to the transactions, Thane-Coat, as a co-conspirator, violated Section 787.4(a) or Section 787A.4(a) of the former Regulations in connection with each shipment. Specifically, BXA alleges that

Thane-Coat committed 32 violations of Section 787.4(a) and five violations of Section 787A.4(a) of the former Regulations, for a total of 37 violations.

Charges 76-112

In furtherance of the conspiracy described in Charge 1 above and to effect the exports described in Charges 2-75 above, on 37 separate occasions between on or about February 12, 1995 and on or about April 25, 1996, Thane-Coat used Shipper's Export Declarations or Bills of Lading, export control documents as defined in Section 770.2 (redesignated as Section 770A.2 on March 25, 1996) of the former Regulations, on which it represented that the commodities described thereon, pipe coating materials, were destined for ultimate end-use in the United Kingdom. In fact, the pipe coating materials were ultimately destined for Libya. BXA alleges that, by making false or misleading statements of material fact directly or indirectly to a United States agency in connection with the use of export control documents to effect exports from the United States, Thane-Coat, as a co-conspirator, violated Section 787.5(a) or Section 787A.5(a) of the former Regulations in connection with each shipment. Specifically, BXA alleges that Thane-Coat committed 32 violations of Section 787.5(a) and five violations of Section 787A.5(a) of the former Regulations, for a total of 37 violations.

The Department alleges that Thane-Coat committed one violation of Section 787.3(b) (redesignated as Section 787A.3(b) on March 25, 1996); 32 violations of Section 787.4(a); five violations of Section 787A.4(a); 32 violations of Section 787.5(a); five violations of Section 787A.5(a); 32 violations of Section 787.6, and five violations of Section 787A.6, for a total of 112 violations of the former Regulations.

Accordingly, Thane-Coat 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:

- a. The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1));
- b. Denial of export privileges (see Section 764.3(a)(2)); and/or
- c. Exclusion from practice (see Section 764.3(a)(3)).

Copies of relevant Parts of the Regulations are enclosed.

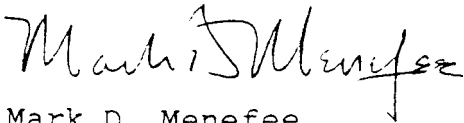
If Thane-Coat fails to answer the charges contained in this letter within 30 days after being served with notice of issuance

of this letter as provided in Section 766.6 of the Regulations, that failure will be treated as a default under Section 766.7.

Thane-Coat is further notified that it is entitled to an agency hearing on the record as provided by Section 766.6 of the Regulations if a written demand for one is filed with its answer, to be represented by counsel, and to seek a settlement.

Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, the U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this charging letter. Accordingly, Thane-Coat's answer should be filed with the U.S. Coast Guard ALJ Docketing Center, 40 S. Gay Street, Baltimore, Maryland 21202-4022, in accordance with the instructions in Section 766.5 of the Regulations. In addition, a copy of Thane-Coat's answer should be served on BXA at the address set forth in Section 766.5, adding "ATTENTION: Thomas C. Barbour, Esq." below the address. Mr. Barbour may be contacted by telephone at (202) 482-5311.

Sincerely,



Mark D. Menefee
Director
Office of Export Enforcement

Enclosures

CHARGE NUMBER	DATE/VESSEL DESTINATION UNITED KINGDOM	COMMODITY NUMBER OF DRUMS	DATE/VESSEL DESTINATION LIBYA	INVOICE NUMBER or BILL OF LADING
14. 51. 88.	09/18/95 Clorinda	TC-300A (448)	10/22/95 Noriandia	9412-5061-TIC-Z6
15 52. s9	09/23/95 James Lpkes	TC-300B (256)	10/22/95 Norlandia	9412-5061-TIC-28
16. 53. 90.	09/25/95 Rita	TC-300A (320)	10/22/95 Norlandia	105172 (Bill of Lading)
17. 54. 91.	10/07/95 Lauren	TC300A (125)	11/07/95 Marina Star	94 12-506 i-TIC-20
18. 55. 92.	10/09/95 Tyson Lvkes	TC-300B (448)	11/18/95 Maria J	9412-5061-TIC-31
19. 56. 93	10/17/95 Samia	TC-300A (448)	11/18/95 Maria J.	9412-5061-TIC-33
20. 57. 94.	11/14/95 Sabrina	TC-300B (3-W)	12/18/95 Manna Star	9412-5061-TIC-3j
21. 58. 95	11/24/95 Sabnna	TC-300B (64)	01/27/96 Sioman Regent	9412-5061-TIC-37
22. 53. 96.	11/27/95 Pol America	TC-300A (448)	01/27/96 Sloman Regent	1858060 (Bill of Lading)
23. 60. 97.	12/19/95 Sabrina	TC-300B (384)	01/27/96 Sloman Regent	9412-5061-TIC--: I
24. 61. 98.	12/27/95 Dominique	TC-300B (384)	01/27/96 Sloman Regent or Sioman Neptune	9412-5061-TIC-J2
25. 62. 99.	01/10/96 Samia	TC-300A (384)	02/18/96 Norlandia	94 12-5061-TIC-13

CHARGE NUMBER	DATE/VESSEL DESTINATION UNITED KINGDOM	COMMODITY NUMBER OF DRUMS	DATE/VESSEL DESTINATION LIBYA	INVOICE NUMBER or BILL OF LADING
26. 63. 100.	02/07/96 Chiara	TC-35A (96) TC-35B (96)	03/17/96 Sloman Regent	9412-5061-TIC-46
27. 64. 101.	02/13/96 Claudia	TC-300A (192)	03/17/96 Sloman Regent	9412-5061-TIC-48
28. 65. 102.	02/17/96 Stefania	TC-300B (192)	03/17/96 Sloman Regent	9412-5061-TIC-47
29. 66. 103.	02/20/96 Marie Laura	TC-300B (384)	03/17/96 Sloman Regent	9412-5061-TIC-49
30. 67. 104.	02/22/96 Pol America	TC-300A (192)	03/17/96 Sloman Regent	9412-5061-TIC-j1
31. 68. 105. 32.	02/26/96 Rita	TC-300A (192)	04/02/96 Sloman Runner	9412-5061-TIC-JO
69. 106.	02/29/96 Daniela	TC-NOB (192) TC-35A (96) TC-35B (96)	04/02/96 Sloman Runner	9412-5061-TIC-52
33. 70. 107.	03/04/96 Samia	TC-300A (192)	04/02/96, Sloman Runner	9412-5061-TIC-53
34. 71. 108	04/08/96 Claudia	TC-300A (384)	05/07/96 Sloman Regent	9412-5061-TIC-59
35. 72. 109	04/14/96 Dominique	TC-300B (192)	05/07/96 Sloman Regent	9412-5061-TIC-66
36. 73. 110.	04/17/96 Sabrina	TC-300B (384)	05/28/96 Manna Star	9412-5061-TIC-61
37. 74. 111.	04/22/96 Rita	TC-300A (384)	05/28/96 Marina Star	103759 (Bill of Lading)

CHARGE NUMBER	DATE/VESSEL DESTINATION UNITED KINGDOM	COMMODITY NUMBER OF DRUMS	DATE/VESSEL DESTINATION LIBYA	INVOICE NUMBER or BILL OF LADING
38 75	04/25/96 Tillie Lykes	TC-300B(64)	05/28/96 Marina Star	T-64

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)
)
THANE-COAT, INC.,)
JERRY VERNON FORD, and)
PRESTON JOHN ENGEBRETSON)
)
Respondents)

Docket No.: 99-BXA-06

SETTLEMENT AGREEMENT BETWEEN THANE-COAT, INC. AND THE
BUREAU OF EXPORT ADMINISTRATION

This Settlement Agreement is made by and between Thane-Coat, Inc. and the Bureau of Export Administration, United States Department of Commerce (“BXA”), pursuant to Section 766.18(b) of the Export Administration Regulations (15 C.F.R. Parts 730-774 (2001)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1994 & Supp. V 1999)) (the “Act”),² and which are currently

¹The violations at issue occurred from 1994 through 1996. The Regulations governing the violations at issue are found in the 1994 through 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 - 1995), and 15 C.F.R. Parts 768-799 (1996), as amended (61 Fed. Reg. 12714, March 25, 1996)) (the “former Regulations”). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred and the Regulations establish the procedures that apply to this matter.

²From 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

maintained in force under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (1994 & Supp. V 1999)).

WHEREAS, BXA has initiated an administrative proceeding against Thane-Coat, Inc. pursuant to the Regulations, based on allegations that **Thane-Coat, Inc.** committed 112 violations of the former Regulations - one violation of section 787.3(b), 32 violations of section 787.4, five violations of section 787A.4, 32 violations of section 787.5(a), five violations of section **787A.5(a)**, 32 violations of section 787.6, and five violations of section 787A.6 of the former Regulations. Specifically, the charges are:

1. *One Violation of 1.5 CFR § 787.3(b): Conspiracy:* Beginning in June 1994 and continuing through July 1996, Thane-Coat, Inc. conspired with Jerry Vernon Ford, Preston John Engebretson, TIC, Ltd. and Export Materials, Inc. to violate the former Regulations by devising and employing a scheme to export and by exporting polyurethane (**isocyanate/polyol**) and polyether polyurethane (collectively referred to as “**pipe coating materials**”), items subject to the former Regulations, from the United States through the United Kingdom to Libya, a country subject to comprehensive economic sanctions, without applying for and obtaining the required export authorizations from the U.S. Government.

U.S.C. §§1701- 1706 (1994 & Supp. V 1999)) (“IEEPA”). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 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 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

2. *37 Violations of 15 C. F. R. §§ 787.6 and 787A.6: Exports Without the Required Licenses:* Between on or about February 12, 1995 and on or about April 25, 1996, on 37 separate occasions, Thane-Coat, Inc. exported or caused to be exported pipe coating materials from the United States to Libya without obtaining validated export licenses from the Department of Commerce as required by sections 772.1 (b), 772A.1(b), 785.7, and 785A.7 of the former Regulations.
3. *37 Violations of 15 C.F.R. §§ 787.4 and 787A.4: Acting with Knowledge of a Violation:* In connection with each of the exports described in paragraph 2 above, on 37 separate occasions, Thane-Coat, Inc. acted with knowledge or had reason to know that validated licenses were required from the Department of Commerce before the pipe coating materials could be sold to Libya.
4. *37 Violations of 15 CFR §§ 787.5(a) and 787A.5(a): Misrepresentation and Concealment:* In connection with each of the exports described in paragraph 2 above, Thane-Coat, Inc., on 37 separate occasions, filed or caused to be filed Shipper's Export Declarations or bills of lading, export control documents as defined in sections 770.2 and 770A.2 of the former Regulations, on which it represented that the ultimate end-use of the pipe coating materials was in the United Kingdom. These statements of material fact were false as the ultimate end-use of the pipe coating materials was in Libya, and were made, directly or indirectly, to an official of the U.S. Government.

WHEREAS, Thane-Coat, Inc. has received notice of issuance of the charging letter pursuant to section 766.3(b) of the Regulations;

WHEREAS, Thane-Coat, Inc. has reviewed the charging letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

WHEREAS Thane-Coat, Inc. fully understands the terms of this Settlement Agreement and an Order of the Assistant Secretary of Commerce for Export Enforcement giving effect to the terms of this Settlement Agreement (the "Order") that will be issued to give effect to this Settlement Agreement, Thane-Coat, Inc. enters into this Settlement Agreement voluntarily and with full knowledge of its rights;

WHEREAS, Thane-Coat, Inc. states that no promises or representations have been made to it other than the agreements and considerations expressed herein;

WHEREAS, Thane-Coat, Inc. neither admits nor denies the allegations contained in the charging letter;

WHEREAS, Thane-Coat, Inc. wishes to settle and dispose of all matters alleged in the charging letter by entering into this Settlement Agreement; and

WHEREAS, Thane-Coat, Inc. agrees to be bound by the Order, when entered;

NOW THEREFORE, Thane-Coat, Inc. and BXA agree as follows:

1. BXA has jurisdiction over Thane-Coat, Inc., under the former Regulations and Regulations, in connection with the matters alleged in the charging letter.

2. The following sanctions shall be imposed against Thane-Coat, Inc. in **complete** settlement of the alleged violations set forth in the charging letter:

- a. Thane-Coat, Inc. shall be assessed a civil penalty in the amount of **\$1,120,000**.
Thane-Coat, Inc. shall pay \$200,000 to the U.S. Department of Commerce within **30** days from the date of entry of the Order, it shall make a second payment of \$200,000 to the U.S. Department of Commerce within 60 days from the date of entry of the Order, and it shall make a third payment of \$200,000 to the U.S. Department of Commerce within 90 days **from** the date of entry of the Order. Payment of the **remaining** \$520,000 shall be suspended for a period of two years from the date of entry of the Order and thereafter shall be waived, provided that during the period of suspension, Thane-Coat, Inc. has committed no violation of the Act, or any regulation, order or license issued by BXA; and has made the three payments described above in a timely manner.
- b. The timely payment of the civil penalty agreed to in paragraph 2a. 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 Thane-Coat, Inc. Failure to make timely payment of the civil penalty set forth above shall result in the denial of **all** of Thane-Coat, **Inc.'s** export privileges for a period of one year **from the** date of entry of the Order imposing the civil penalty.
- c. For a period of 25 years from the date of the Order, Thane-Coat, Inc., its successors or assigns, and, when acting for or on behalf of Thane-Coat, Inc., its

officers, representatives, agents or employees (“denied persons”) may not, directly or indirectly, participate in any way in any transaction involving any commodity, software, or technology (collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

1. Applying for, obtaining, or using any license, License Exception, or export control document;
2. **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 subject to the Regulations, or in any other activity subject to the Regulations; or
3. Benefitting in any way from any transaction involving any item exported or to be exported **from** the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Settlement Agreement pursuant to paragraph 8 hereof, Thane-Coat, Inc. hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Settlement Agreement or the Order, when entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Settlement

Agreement and the Order, when entered; and (c) seek judicial review or otherwise to contest the validity of this Settlement Agreement or the Order, when entered.

4. **BXA** agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Thane-Coat, Inc. in connection with any violation of the former Regulations or Regulations arising out the transactions identified in the charging letter.

5. **Thane-Coat, Inc.** understands that **BXA** will make the charging letter, this Settlement Agreement, and the Order, when entered, available to the public.

6. **BXA** and Thane-Coat, Inc. agree that this Settlement Agreement is for settlement purposes only. Therefore, if this Settlement Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, **BXA** and Thane-Coat, Inc. agree that they may not use this Settlement Agreement in any administrative or judicial proceeding and that the parties shall not be bound by the terms contained in this Settlement Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise **affect** the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement 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 BXA only when 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.

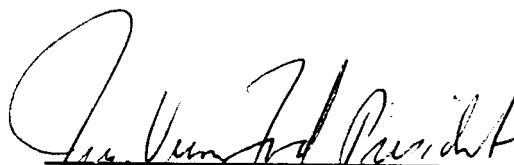
BUREAU OF EXPORT ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

THANE-COAT, INC.



Karan Bhatia
Chief Counsel
Office of Chief Counsel for
Export Administration

Date: 1/15/02


Jerry Vernon Ford
President

Date: 12/7/01

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)	
)	
THANE-COAT, INC.,)	
JERRY VERNON FORD, and)	Docket No.: 99-BXA-06
PRESTON JOHN ENGBRETSON)	
)	
Respondents)	

ORDER RELATING TO RESPONDENT. PRESTON JOHN ENGBRETSON

The Bureau of Export Administration, United States Department of Commerce (“BXA”), having initiated an administrative proceeding against Preston John Engebretson (“Engebretson”) pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (1991 & Supp. V 1999)) (the “Act”),’ and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2001)) (the “Regulations”),’ based on allegations

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² The violations at issue occurred from 1994 through 1996. The Regulations governing the violations at issue are found in the 1994 through 1996 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1994 -1995), and 15 C.F.R. Parts 768-799 (1996), as amended (61 *Fed. Reg.* 12714, March 25, 1996)) (the “former Regulations”). The March 25, 1996 *Federal Register* publication redesignated, but did not republish, the then-existing Regulations as 15 C.F.R. Parts 768A-799A. In addition, the March 25, 1996 *Federal Register* publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730-774,

that Engebretson committed 112 violations of the former Regulations - one violation of section 787.3(b), 32 violations of section 787.4, five violations of section 787A.4, 32 violations of section 787.5(a), five violations of section 787A.5(a), 32 violations of section 787.6, and five violations of section 787A.6 of the former Regulations. Specifically the charges are:

1. *One Violation of 1.5 CFR § 787.3(b): Conspiracy:* Beginning in June 1994 and continuing through July 1996, Engebretson conspired with Thane-Coat, Inc., Jerry Vernon Ford, TIC, Ltd. and Export Materials, Inc., to violate the former Regulations by devising and employing a scheme to export and by exporting polyurethane (isocyanate/polyol) and polyether polyurethane (collectively referred to as “pipe coating materials”), items subject to the former Regulations, from the United States through the United Kingdom to Libya, a country subject to comprehensive economic sanctions, without applying for and obtaining the required export authorizations from the U.S. Government.
2. *37 Violations of 1.5 C.F.R. §§ 787.6 and 787A.6: Exports Without the Required Licenses:* Between on or about February 12, 1995 and on or about April 25, 1996, on 37 separate occasions, Engebretson exported or caused to be exported pipe coating materials from the United States to Libya without obtaining validated export licenses from the Department of Commerce as required by sections 772.1(b), 772A.1(b), 785.7, and 785A.7 of the former Regulations.

effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred and the Regulations establish the procedures that apply to this matter.

3. *37 Violations of 15 C.F.R. §§ 787.4 and 787A.4: Acting with Knowledge of a Violation:* In connection with each of the exports described in paragraph 2 above, on 37 separate occasions, Engebretson acted with knowledge or had reason to know that validated licenses were required from the Department of Commerce before the pipe coating materials could be sold to Libya.
4. *37 Violations of 15 CFR §§ 787.5(a) and 787A.5(a): Misrepresentation and Concealment:* In connection with each of the exports described in paragraph 2 above, Engebretson, on 37 separate occasions, filed or caused to be filed Shipper's Export Declarations or bills of lading, export control documents as defined in sections 770.2 and 770A.2 of the former Regulations, which represented that the ultimate end-use of the pipe coating materials was in the United Kingdom. These statements of material fact were false as the ultimate end-use of the pipe coating materials was in Libya. These false statements were made, directly or indirectly, to an official of the U.S. Government.

BXA and Engebretson having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that, for a period of 25 years from the date of this Order, Engebretson, and when acting for or on behalf of Engebretson, his representatives, agents, assigns, or employees

(“denied persons”), 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 that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using, any license, License Exception, or export control document;
- 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 that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, 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 subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the denied persons of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including

financing or other support activities related to a transaction whereby the denied persons acquire or attempt 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 persons of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the denied persons 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; 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 and which is owned, possessed or controlled by the denied persons, or service any item, of whatever origin, that is owned, possessed or controlled by the denied persons if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.


THIRD, 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 Engebretson by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

FOURTH, 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.

FIFTH, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

SIXTH, that, the 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.



Michael J. Garcia
Assistant Secretary of Commerce
for Export Enforcement

Entered this July day of January, 2002.