

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Carl Zeiss Optical, Inc.  
13005 N. Kingston Avenue  
Chester, VA 23836

Attention: *Mr. Anthony Cataldo*  
*Vice President, General Manager*

Dear Mr. Cataldo:

The Bureau of Industry and Security, U. S. Department of Commerce ("BIS"), has reason to believe that Carl Zeiss Optical, Inc. ("Zeiss"), of Chester, Virginia, has committed 10 violations of 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> Specifically, BIS charges that Zeiss committed the following violations:

**Charges 1-10 (15 C.F.R. §764.2(a) - Exporting Optical Sighting Devices Without the Required Licenses)**

On 10 occasions, between on or about June 7, 2002 and on or about April 23, 2003, Zeiss engaged in conduct prohibited by the Regulations by exporting or causing to be exported optical sighting devices, items classified under Export Control Classification Number ("ECCN") 0A987 of the Regulations, to Canada without the Department of Commerce (the "Department") licenses required by Section 742.17 of the Regulations. *See* the Schedule of Violations, which is enclosed

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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 violations charged occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2004 Regulations govern the procedural aspects of this case.

<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 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 (Aug. 10, 2004)), continues the Regulations in effect under IEEPA.

herewith and incorporated herein by reference. In so doing, Zeiss committed 10 violations of Section 764.2(a) of the Regulations.

Accordingly, Zeiss 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;<sup>3</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Zeiss is further notified that it is entitled to an agency hearing on the record if Zeiss files a written demand for one with its answer. (Regulations, Section 766.6). Zeiss 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 Zeiss have a proposal to settle this case, Zeiss 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, Zeiss'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

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<sup>3</sup> See 15 C.F.R. § 6.4(a)(2).

Carl Zeiss Optical, Inc.  
Proposed Charging Letter  
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In addition, a copy of Zeiss's answer must be served on BIS at the following address:

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

Glenn H. Kaminsky is the attorney representing BIS in this case; any communications that Zeiss may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Acting Director  
Office of Export Enforcement

Enclosure

# CARL ZEISS OPTICAL, INC.

## SCHEDULE OF VIOLATIONS

<u>Shipment No.</u>	<u>Export Date</u>	<u>License Number</u>	<u>Commodity</u>	<u>ECCN</u>	<u>Destination</u>	<u>Zeiss Invoice No.</u>	<u>Value in USD</u>
1.	6-7-02	None	4 Riflescopes	0A987	Canada	1006965-000	\$1,520.00
2.	8-1-02	None	21 Riflescopes	0A987	Canada	1024403-000 1024355-000	\$14,657.31
3.	9-17-02	None	18 Riflescopes	0A987	Canada	1039869-000	\$6,378.00
4.	10-2-02	None	12 Riflescopes	0A987	Canada	1024355-003	\$5,280.00
5.	10-31-02	None	30 Riflescopes	0A987	Canada	2909853-000	\$10,230.00
6.	11-25-02	None	18 Riflescopes	0A987	Canada	2917778-000	\$6,684.00
7.	11-2-02	None	6 Riflescopes	0A987	Canada	2917778-001	\$1,974.00
8.	12-20-02	None	9 Riflescopes	0A987	Canada	2909853-001 1024355-004	\$3,810.00
9.	3-12-03	None	30 Riflescopes	0A987	Canada	2949703-000	\$9,672.00
10.	4-25-03	None	51 Riflescopes	0A987	Canada	2963682-000	\$16,845.00
<b>Totals:</b>	<b>10</b>		<b>199</b> Riflescopes				<b>\$77,050.31</b>

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

In the Matter of: )  
)  
Carl Zeiss Optical, Inc. )  
13005 N. Kingston Avenue )  
Chester, VA 23836 )  
)  
Respondent. )  
)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Carl Zeiss Optical, Inc. (“Zeiss”), 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 (2004)) (“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>

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

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<sup>1</sup> The violations charged occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2004 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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 issued a proposed charging letter to Zeiss dated January 28, 2005 that alleged that

Zeiss committed 10 violations of the Regulations, specifically:

1. *10 Violations of 15 C.F.R. §764.2(a) - Exporting Optical Sighting Devices Without the Required Licenses:* On 10 occasions, between on or about June 7, 2002 and on or about April 23, 2003, Zeiss engaged in conduct prohibited by the Regulations by exporting or causing to be exported optical sighting devices, items classified under Export Control Classification Number (“ECCN”) 0A987 of the Regulations, to Canada without the Department of Commerce (the “Department”) licenses required by Section 742.17 of the Regulations.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

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

a. Zeiss shall be assessed a civil penalty in the amount of \$10,000, 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 Zeiss.

Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Zeiss's export or reexport privileges for a period of one year from the date of entry of the Order imposing the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Zeiss 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 \$10,000 civil penalty, BIS will not initiate any further administrative proceeding against Zeiss 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 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.

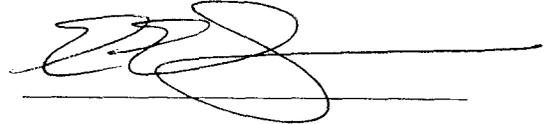
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

CARL ZEISS OPTICAL, INC.



Michael D. Turner  
Director, Office of Export Enforcement



Edward Greene  
President, CEO

Date: 3/24/05

Date: 3-15-05

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

\_\_\_\_\_  
In the Matter of: )  
 )  
Carl Zeiss Optical, Inc. )  
13005 N. Kingston Avenue )  
Chester, VA 23836 )  
 )  
Respondent. )  
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ORDER RELATING TO CARL ZEISS OPTICAL, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Carl Zeiss Optical, Inc. (“Zeiss”) of its intention to initiate an administrative proceeding against Zeiss pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“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 issuing a proposed charging letter to Zeiss dated January 28, 2005 that alleged that Zeiss committed 10 violations of the Regulations. Specifically, the charges are:

1. *10 Violations of 15 C.F.R. §764.2(a) - Exporting Optical Sighting Devices*

*Without the Required Licenses:* On 10 occasions, between on or about June 7,

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<sup>1</sup> The violations charged occurred from 2002 through 2003. The Regulations governing the violations at issue are found in the 2002 - 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2004 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 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)).

2002 and on or about April 23, 2003, Zeiss engaged in conduct prohibited by the Regulations by exporting or causing to be exported optical sighting devices, items classified under Export Control Classification Number (“ECCN”) 0A987 of the Regulations, to Canada without the Department of Commerce (the “Department”) licenses required by Section 742.17 of the Regulations.

WHEREAS, BIS and Zeiss 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 \$10,000 is assessed against Zeiss, 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, Zeiss 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.

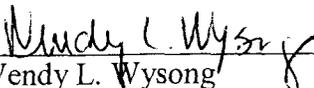
THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license

Order  
Carl Zeiss Optical, Inc.  
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exception, permission, or privilege granted, or to be granted, to Zeiss. Accordingly, if Zeiss should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Zeiss'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.

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

Entered this 25th day of March 2005.