

We're back with more hard-to-believe tales of poor judgment today. This story, which comes to us courtesy of the [Department of Justice](#), interweaves several recurring themes readers see on this site. One of those themes would be compliance with export control laws and regulations. Another theme would be how noncompliance with laws and regulations can lead to allegations of violations of the False Claims Act. And yet another theme would be securing one's supply chain against counterfeit parts. Sometimes we feel like a lone voice in the wilderness, warning companies to implement effective internal controls and to deploy controls (and monitoring) in their operations, so as to avoid "problems" with the Federal government.

And then we encounter a story like this one, where Rocky Mountain Instrument Company (RMI) makes our points for us, with an elegant simplicity that we can only aspire to reach. Sure, it cost RMI \$2 million and put the company into Chapter 11 bankruptcy, but isn't that really just a small price to pay for giving us such a perfect object lesson?

Let's dish.

RMI settled with the DOJ on October 29, 2010 by agreeing to pay \$1 million to resolve allegations of False Claim Act violations. As the DOJ notes—

This amount is in addition to a \$1 million criminal forfeiture and five year probationary term ordered in connection with RMI's June 22, 2010, plea of guilty to knowingly and willfully exporting defense articles without a license in *United States v. Rocky Mountain Instrument Company*, 10-cr-00139-WYD-01 (D. Colo.).

RMI was a subcontractor to "various" DOD prime contractors. RMI

sold those prime contractors “optical and laser products” for which those primes subsequently billed the DOD. RMI must have been a low-bidder, because it sourced its products from “overseas” manufacturers. The problem with that approach, according to the DOJ, was that RMI exported “sensitive technical data” *without a license* to those overseas manufacturers so that they could produce the items. Oops!

Those pesky violations of Arms Export Control Act and International Traffic in Arms Regulations are going to get you in trouble every time. In this instance, they led to both civil and criminal charges, and put the company into Chapter 11.

What the DOJ announcement doesn't mention is the effect RMI's violations had on the prime contractors' defense programs. Some poor prime contractors were counting on RMI to provide necessary items to be incorporated into their end products. Those contractors spent time and money sourcing RMI—a company they thought was a legitimate low-cost supplier. They were wrong. It's not clear whether RMI's products were or were not usable, but certainly nobody is going to want to use RMI as a source anytime in the near future.

And what about the sensitive technology that was exported? What effect will that technology have downstream to this country's national security? Suddenly, \$2 million strikes us as a woefully inadequate fine.

Export Violations and False Claims

Written by Administrator
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