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Testimony presented by
David E. Feniger, President, American Posts, LLC
before the
United States Trade Representative, Section 301 Committee
Docket Number USTR-2018-0005

Good afternoon Chairman and distinguished members of the U.S. Trade Representative Section 301 Committee. As President of American Posts LLC, on behalf of my employees and their families, as well as my suppliers and their workforces, I am honored to have the opportunity to speak before you today. For your further consideration, I have submitted my formal extended comments for the record.

Today I respectfully request the addition of Harmonized Tariff Schedule of the United States (HTSUS) code 7326.90.8635 covering fence posts, studded with corrugations, knobs, studs, notches or similar protrusions, with or without anchor plats, to the proposed Section 301 list. Unfair Chinese trade practices for products under this HTS code are severely restricting U.S. commerce in the steel u-post market and are threatening the viability of the last remaining U.S. manufacturer.

Established in 2005, my company, American Posts, located in Toledo, Ohio, is now the sole remaining U.S. manufacturer of steel u-posts for the lawn and garden industry in the U.S. We also supply high quality steel u-posts to the U.S. Department of Defense (DOD) to meet worldwide military security requirements.

20 years ago, there were four active U.S. based companies manufacturing steel u-posts for the commercial market. However, years of unfair Chinese manufacturing, shipping, and trade practices have forced our U.S. competitors out of the business.

Today, our only competitors for commercial sales in the U.S. are Chinese manufacturers, which currently possess 85 percent of the U.S. commercial market.

We are very proud of the work we do and the employees we are able to provide with jobs in a very distressed area of our country. We are fighting hard to stay in business, but with only 15 percent of the market and operations at only 35 percent capacity, the impact of unfair Chinese trade practices, compounded by the sharp U.S. steel price increases following the Section 232 steel tariffs, are proving unsustainable.

To be clear, American Posts strongly supports both the Section 232 and the Section 301 tariffs, but in their current form they have no impact on our Chinese competitors who are able to bypass the tariff rules.

To explain, the steel u-posts produced by American Posts are manufactured by stamping or roll forming light-gauge hot-rolled steel and applying a powder coating. This process is the

same for our competitors, however American Posts uses American steel and all of our competitors use Chinese steel.

The hot-rolled, flat-rolled steel coils used to make steel u-posts accounts for over 70 percent of the cost of our final product. Importantly, both the Section 232 and proposed Section 301 lists includes this type of hot-rolled steel, covered under HTSUS codes 7208.27.00 and 7208.10.60. However, steel u-posts made from this steel, are not on either list.

As a result, Chinese manufacturers are able to produce steel u-posts in China, using Chinese steel, for direct sale to U.S. distributors and retailers without any corresponding penalty, despite the fact that 70 percent of the posts' content consists of steel subject to the tariff.

Simultaneously, the Section 232 tariffs have allowed U.S. steel producers to raise their prices by over 20 percent. As a result, American Posts' production costs have risen substantially while Chinese exporters' costs have remained the same, severely stressing an already difficult market condition for American Posts and its employees.

For further context, American Posts' business specializes in providing a just-in-time delivery system for U.S. based customers. This is designed to minimize inventory and logistics requirements, which in turn, decreases overall business costs for our U.S. customers. However, despite this low cost business model, our Chinese competitors have managed to secure and maintain 85 percent of the U.S. market share.

This is due, in large part, to the lower input and production costs of our Chinese competitors', specifically the cost of steel mill articles used to manufacture steel u-posts, typically purchased directly from steel mills. Chinese steel mills have historically been the beneficiaries of subsidies and preferential trade policies instituted by the Chinese government. These unfair trade practices have kept steel prices, particularly for mill products such as ours, artificially low. Additionally, as described in the January 2018 Section 301 Report, Chinese steel companies have been responsible for some of the more damaging instances of cyberattacks and the theft of trade secrets.

The unfair advantage of American Posts' Chinese competitors is not a new development. The issue was brought before the U.S. International Trade Commission in a 2002 antidumping case: "Lawn and Garden Steel Fence Posts from the People's Republic of China" (731-TA-1010). The USITC ruled in favor of the petitioner, finding that U.S. industry was being materially injured by reason of less-than-fair-value imports of certain steel u-posts. Antidumping duties were imposed in 2003, but the impacts were limited when several companies were effectively exempted from the duties. These limitations were primarily a result of the inability to determine the "normal value" of Chinese u-posts, given that China is considered a Non-Market Economy. The duties were allowed to sunset in 2008.

The sharp price increase in U.S. steel as a result of the Section 232 tariffs has further impacted our ability to competitively price our products. Prospective customers are requiring us to provide long-term pricing guarantees to protect themselves from fluctuating U.S. steel prices. Because the Chinese are still able to sell low-cost u-posts made to the U.S. without penalty, we are being forced into an untenable situation: either we take an unsustainable risk of guaranteeing a below cost price to try to stay competitive, or we provide a safe, higher price, but price ourselves out of the market.

As demonstrated in the pricing chart provided in the confidential portion of my submission to the Committee, a 25% tariff under Section 301 will allow American Posts to maintain competitive pricing with its Chinese manufacturers, without negatively impacting American consumers. In fact, this action would finally give American Posts a level playing field to compete for the business of the nation's largest big-box retailers so that American's can once again have a choice between buying American and buying Chinese. With orders from just one of the large big-box retailers in the U.S., American Posts could double our workforce, and that of our subcontracting base.

In summary, China's longstanding unfair trade practices, compounded by the unpredictable price increase in U.S. steel and the ability for our Chinese competitors to bypass the steel tariffs by providing a ready-made Chinese end-product to the U.S. market without penalty, has created an unsustainable situation for American Posts. Failure to take action will jeopardize the viability of our company, the only remaining U.S. manufacturer of lawn and garden steel u-posts and valued supplier for the Department of Defense.

Inclusion of HTS code 7326.90.8635 on the Section 301 list would meet the objectives outlined in USTR-2018-0005 by leveling the playing field with Chinese competitors that receive significant subsidies and preferential trade policies instituted by the Chinese government to keep steel prices, particularly for mill products just as ours, artificially low, and which have been responsible for some of the more damaging instances of cyberattacks and the theft of trade secrets. This action will also significantly increase the number of high quality jobs American Posts can provide U.S. citizens and increase our contribution to the U.S. economy by reaching our full operating capacity, while ensuring we do not negatively impact consumer pricing.

On behalf of American Posts LLC, our employees and subcontractors, I deeply appreciate your time and consideration of my request under Docket Number USTR-2018-0005 **to add Harmonized Tariff Schedule code 7326.90.8635 to the Section 301 tariff list.**

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