

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

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In the Matter of: )  
)  
Yarde Metals, Inc. )  
45 Newell Street )  
Southington, CT 06489 )  
)  
)  
\_\_\_\_\_  
Respondent )

ORDER RELATING TO YARDE METALS, INC.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Yarde Metals, Inc. (“Yarde”), of its intention to initiate an administrative proceeding against Yarde pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2010)) (the “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)) (the “Act”),<sup>2</sup> through issuance of a proposed charging letter to Yarde that alleged that Yarde committed three violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations alleged occurred in 2004. The Regulations governing the violation at issue are found in the 2004 version of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2004). The 2010 Regulations govern the procedural aspects of this case.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701*et seq.*) (2000)).

**Charges 1-3 15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Aluminum Materials Without the Required Licenses**

On three occasions in June 2004, Yarde Metals engaged in conduct prohibited by the Regulations by exporting aluminum rods and tubes, items subject to the Regulations<sup>3</sup> and controlled for nuclear nonproliferation reasons, to Singapore and Israel without the Department of Commerce licenses required by Section 742.3 of the Regulations.

WHEREAS, BIS and Yarde 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;

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$12,000 is assessed against Yarde, which shall be paid to the U.S. Department of Commerce within thirty days from the date of issuance 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, Yarde 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 exception, permission, or privilege granted, or to be granted, to Yarde. Accordingly, if Yarde should fail to pay the civil penalty in a timely manner, the

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<sup>3</sup> Items are classified under Export Control Classification Number 1C202 (2004).

undersigned may issue an Order denying all of Yarde's export privileges for a period of one year from the date of issuance 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.



David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 28 day of July, 2010.

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

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In the Matter of: )  
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Yarde Metals, Inc. )  
45 Newell Street )  
Southington, CT 06489 )  
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Respondent \_\_\_\_\_ )

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Yarde Metals, Inc. (“Yarde”) and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2010)) (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),<sup>2</sup>

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<sup>1</sup> The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2010 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701*et seq.*)(2000) (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

WHEREAS, Yarde filed a voluntary self-disclosure with BIS's Office of Export Enforcement in accordance with Section 764.5 of the Regulations concerning the transactions at issue herein;

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

WHEREAS, BIS has issued a proposed charging letter to Yarde that alleged that Yarde committed three violations of the Regulations, specifically:

**Charges 1-3 15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Aluminum Materials Without the Required Licenses**

On three occasions in June 2004, Yarde Metals engaged in conduct prohibited by the Regulations by exporting aluminum rods and tubes, items subject to the Regulations<sup>3</sup> and controlled for nuclear nonproliferation reasons, to Singapore and Israel without the Department of Commerce licenses required by Section 742.3 of the Regulations.

WHEREAS, Yarde 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, Yarde fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

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

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

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<sup>3</sup> Items are classified under Export Control Classification Number 1C202 (2004).

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

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

WHEREAS, the Parties agree to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Yarde in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the proposed charging letter:

a. Yarde shall be assessed a civil penalty in the amount of \$12,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of issuance of this 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, permission, or privilege granted, or to be granted, to Yarde. Failure to make timely payment of the civil penalty in accordance with the payment schedule set forth above may result in the denial of all of Yarde's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Yarde 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 issued), including,

without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued.

4. Upon issuance of the Order and timely payment of the \$12,000 civil penalty, BIS will not initiate any further administrative proceedings against Yarde in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the voluntary self-disclosure and the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if issued, 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 oral 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 issued, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. 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 issuing 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

YARDE METALS, INC.

  
\_\_\_\_\_  
John Sonderman  
Acting Director  
Office of Export Enforcement

  
\_\_\_\_\_  
Matthew Smith  
President & COO  
Yarde Metals, Inc.

Date: 7/26/10

Date: 7/19/10



PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Yarde Metals, Inc.  
45 Newell Street  
Southington, CT 06489

*Attention:* Matthew Smith, President & COO

Dear Mr. Smith:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”), has reason to believe that Yarde Metals, Inc. (“Yarde”), of Southington, Connecticut, committed three violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS charges that Yarde committed the following violations:

**Charges 1-3                    15 C.F.R. §764.2(a) - Engaging in Prohibited Conduct by Exporting Aluminum Materials Without the Required Licenses**

As described in greater detail in the attached Schedule of Violations, which is incorporated herein by reference, on three occasions in June 2004, Yarde Metals engaged in conduct prohibited by the Regulations by exporting aluminum rods and tubes, items subject to the Regulations<sup>3</sup> and controlled for nuclear nonproliferation reasons, to Singapore and Israel without the Department of Commerce licenses required by Section 742.3 of the Regulations. In so doing, Yarde committed three violations of Section 764.2(a) of the Regulations.

\*   \*   \*   \*   \*   \*   \*

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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 (2010). The charged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2010 Regulations establish the procedures that apply to this matter.

<sup>2</sup> 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 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701, *et seq.*) (“IEEPA”).

<sup>3</sup> Items are classified under Export Control Classification Number 1C202 (2004).

Accordingly, Yarde 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:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation<sup>4</sup>;
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Yarde 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. *See* 15 C.F.R. §§ 766.6 and 766.7 (2010). If Yarde defaults, the Administrative Law Judge may find the charges alleged in this letter to be true without a hearing or further notice to Yarde. The Under Secretary for Industry and Security may then impose up to the maximum penalty on the charges in this letter.

Yarde is further notified that it is entitled to an agency hearing on the record if Yarde files a written demand for one with its answer. *See* 15 C.F.R. § 766.6 (2010). Yarde is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4 (2010).

Yarde is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Yarde may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2010). Should Yarde have a proposal to settle this case, Yarde 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, Yarde's answer must be filed in accordance with the instructions set forth 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>4</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

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

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

Sincerely,

John Sonderman  
Acting Director  
Office of Export Enforcement

Enclosure

**Yarde Metals Schedule of Violations**

No.	Date	Commodity	Invoice	Exporter	Destination	Value	ECCN
1	4-Jun-04	Alum Rods 4.5"	2420638	Yarde	Singapore	\$ 2,862	1C202
2	8-Jun-04	Alum Rod 5.25"	2439955	Yarde	Singapore	\$ 659	1C202
3	29-Jun-04	Alum Rods 7"	2441122	Yarde	Israel	\$ 3,678	1C202
<b>Invoice Total</b>						<b>\$7,200</b>	