

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

In the Matter of:

Saeid Yahya Charkhian  
Villa 5, Street 1, Arabian Ranches  
Dubai, United Arab Emirates

17-BIS-0002

and

Caspian Industrial Machinery Supply LLC  
No. 2509 Churchill Executive Tower, Business  
Bay,  
Dubai, United Arab Emirates  
Attention: Saeid Yahya Charkhian

Respondents

ORDER RELATING TO SAEID YAHYA CHARKHIAN  
AND CASPIAN INDUSTRIAL MACHINERY SUPPLY LLC

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Saeid Yahya Charkhian, of Dubai, United Arab Emirates (“Charkhian”), and Caspian Industrial Machinery Supply LLC of Dubai, United Arab Emirates (“Caspian”) (collectively the “Respondents”), that it has initiated an administrative proceeding against Respondents pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Charging Letter to Respondents that allege that

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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 (2017). The violations alleged occurred in 2012-2013. The Regulations governing the violations at issue are found in the 2012-2013 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2012-2013). The 2017 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. §§ 4601-4623 (Supp. III 2015). 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 15, 2017 (82 Fed. Reg. 39,005 (Aug. 16, 2017)), has

Charkhian committed four (4) violations of the Regulations and Caspian committed three (3) violations of the Regulations. Specifically, the charges are:

**As to both Charkhian and Caspian:**

**Charges 1-3 15 C.F.R. § 764.2(e) – Acting with Knowledge**

1. On at least three occasions between on or about March 27, 2012, and on or about October 5, 2013, Charkhian and Caspian (collectively, the “Respondents”) transferred, forwarded, ordered, bought and/or sold items subject to the Regulations and exported or to be exported from the United States to Iran, via the Netherlands and the United Arab Emirates (“UAE”), with knowledge<sup>3</sup> that a violation of the Regulations had occurred or was about or intended to occur in connection with the items. Specifically, the Respondents acted with knowledge of a violation of the Regulations when they sold, transferred and/or forwarded to, and/or ordered or bought for, end users in Iran items that the Respondents procured from the United States through an intermediary company located in the Netherlands. These U.S.-origin items, including masking wax, lithium batteries, and zirconia crucibles, were designated EAR99 under the Regulations<sup>4</sup> and valued in total at nearly \$190,000.
2. The Respondents’ actions violated the long-standing and widely-known U.S. embargo against Iran. Under Section 746.7 of the Regulations, BIS prohibits the export or reexport to Iran of any item subject to both the Regulations and the Iranian Transactions and Sanctions Regulations (“ITSR”), if the transaction is prohibited by the ITSR and has not been authorized by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”),

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continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq.) (2012).

<sup>3</sup> Title 15 C.F.R. § 772.1 defines “knowledge” as “[k]nowledge of a circumstance (the term may be a variant, such as “know,” “reason to know,” or “reason to believe”) includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.

<sup>4</sup> “EAR99” is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

which administers the ITSR.<sup>5</sup> At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. This broad prohibition included restrictions on the exportation, reexportation, sale or supply of any goods, technology, or services from the United States to a third country, such as the Netherlands or the UAE, undertaken with knowledge or reason to know that they were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran. 31 C.F.R. § 560.204. As set further below, the Respondents knew that the items at issue were ultimately destined for Iran and they knew of the U.S. embargo against Iran, but they did not seek or obtain the required U.S. Government authorizations in connection with any of the exports or reexports described herein.

3. Charkhian, an Iranian national, personally participated in each of the transactions at issue and, in addition, was Managing Director and part owner of Caspian, a UAE trading company, at all times pertinent hereto. Upon information and belief, Charkhian has, in fact, been Managing Director of Caspian since in or about May 2001, when Caspian was formed in the UAE. Through the Respondents' many years of business in the UAE, they were aware of the U.S. embargo against Iran at the times of the transactions at issue in 2012-2013. Moreover, the Respondents had specifically acknowledged the existence of the embargo, for example, when they completed an end-user agreement with a European subsidiary of a U.S. company that included statements related to the need for compliance with "U.S. Export Administration Regulations."
4. Despite this knowledge, the Respondents sought to procure for and supply to customers in Iran U.S.-origin items without the required U.S. Government authorization and did so through transactions that they structured to conceal from U.S. suppliers the Respondents' actual role in the transactions and that the items were ultimately destined for Iran. On or about March 27, 2012, the Respondents transferred or forwarded masking wax, an item subject to the Regulations and the ITSR and valued at \$2,570, from the UAE to Iran without the required U.S. Government authorization. The events leading to this knowing violation began in or about November 2011, when the Respondents received an inquiry from an Iranian entity seeking masking wax, a protective, strippable coating used in electroplating, for capping ends of tubing, and for sealing the ends of electric cables. The Respondents provided the request to a company in the Netherlands, which indicated that it "only [had a] source in USA for this product" but that the product was "on stock in the U.S." and

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<sup>5</sup> 31 C.F.R. Part 560 (2012-2013). The ITSR formerly were known as the Iranian Transactions Regulations ("ITR"). On October 22, 2012, OFAC renamed the ITR as the ITSR and reissued them in relevant part. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012).

could be delivered in about two weeks. The Respondents' Iranian customer Mavadkaran Jahed Noavar Company ("Mavadkaran"), which is part of the Iran-based conglomerate the MAPNA Group, subsequently issued a purchase order on or about February 13, 2012, to the Respondents for 100 lbs. of masking wax, which the Respondents then purchased from the United States through the Dutch reseller. Payment information indicates that the Respondents sold the items to Mavadkaran on or about February 21, 2012. The items were exported from the United States on or about February 23, 2012. After arriving in the Netherlands, the items were transshipped on or about March 14, 2012, to the Respondents in the UAE. On or about March 27, 2012, the Respondents then transferred or forwarded the items to Iran.

5. On a second occasion, between in or about July 2012, and in or about October 2012, the Respondents similarly ordered and bought lithium batteries from the United States through the same Dutch intermediary company and then sold, transferred and/or forwarded the batteries to an end user in Iran. The lithium batteries were subject to the Regulations and the ITSR and were valued in total at \$75,000. In or about January 2012, the Respondents had asked the Dutch company to provide a quote for six orders of 1,000 batteries which the Respondents' customer had tested and sought for a pending project in Iran. After receiving pricing information from the Dutch company, the Respondents bought or ordered the 1,000 lithium batteries on or about July 15, 2012, which was followed by a pro forma invoice from the Dutch company to the Respondents for the 1,000 batteries about one month later. On or about October 3, 2012, the U.S. supplier, which had not been informed that the items were to be transshipped to Iran, filed an Automated Export System ("AES") record indicating that 1,000 lithium batteries were being exported from the United States for the ultimate destination of the Netherlands. As part of email correspondence between on or about October 15-17, 2012, following the transshipment of the items from the Netherlands to the Respondents in the UAE, the Dutch company provided the Respondents a certificate of origin from the U.S. company confirming the items were of U.S.-origin, as well as an invoice identifying the items as manufactured in the United States. A Caspian invoice and packing list dated October 17, 2012, indicated that the Respondents were selling, transferring and/or forwarding 1,000 lithium batteries to a buyer in Tehran, Iran, that was related to the Iran National Oil Company<sup>6</sup> and Iran National Drilling Company,<sup>7</sup> both of which are Iranian-Government owned corporations. The invoice also confirmed that the items

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<sup>6</sup> Also known as National Iranian Oil Company or "NIOC." NIOC was designated a Specially Designated National ("SDN") by OFAC on December 4, 2008, but was removed from the SDN List on January 16, 2016, as part of the Joint Comprehensive Plan of Action ("JCPOA").

<sup>7</sup> Also known as the National Iranian Drilling Company or "NIDC."

were of U.S.-origin. A few days later, in an email dated on or about October 29, 2012, an Iranian party confirmed that it had received the 1,000 lithium batteries from the Respondents.

6. Finally, on a third occasion, between in or about August 2013, and in or about October 2013, the Respondents ordered and bought approximately 196 flat bottom zirconia crucibles from the United States through the same Dutch intermediary company and then sold, transferred or forwarded the crucibles to an end user in Iran. The crucibles are subject to the Regulations and the ITSR, can be used in nuclear material casting, such as casting uranium, and were valued at \$112,000. The events leading up to this knowing violation began when the Respondents received an order request from Iranian company Mavadkaran on or about April 23, 2013. Mavadkaran requested that the purchase order be issued to Mapna International F.Z.E. (“Mapna”), a related company in the UAE, which was listed as the buyer instead of Mavadkaran. The Respondents’ pro forma invoice dated April 23, 2013, indicated that the items would be of U.S.-origin. On or about May 9, 2013, the Respondents forwarded the order request to the Dutch company, and approximately one week later the Respondents received a price quote for the items. On or about June 3, 2013, Mapna issued a purchase order to the Respondents stating that the items were to be delivered by vessel to Iran and that the Respondents should provide a certification of origin confirming the items were of U.S.-origin, certified by the local chamber of commerce. After the Dutch company placed a corresponding order with a U.S. supplier at the Respondents’ request, the zirconia crucibles were exported from the United States to the Netherlands on or about August 20, 2013. The Dutch company transshipped the items to the UAE on or about September 17, 2013. An email dated on or about October 5, 2013, from Charkhian to a customs broker indicated that the Respondents had forwarded or transferred the items for delivery to Iran.
7. In so doing, the Respondents committed three (3) violations of Section 764.2(e) of the Regulations and are jointly and severally liable for those violations.

**As to Charkhian only:**

**Charge 4      15 C.F.R. § 764.2(g) – False or Misleading Statement**

8. On or about December 16, 2014, Charkhian made a false or misleading statement to BIS and other U.S. Government officials in connection with an action subject to the Regulations and/or in connection with effecting an export, reexport or other activity subject to the Regulations. While being interviewed by BIS on that date as part of a post-shipment verification (unrelated to Charges 1-3 above), Charkhian represented that he had never conducted any business with Iran at any time since 2001, and had not

purchased anything from the United States during that time period. These statements contradicted the transactions and related transaction documents and correspondence detailed in Charges 1-3 above, which clearly indicate that at least on three occasions during 2012-2013, Charkhian and his company, Caspian, knowingly procured items from the United States or of U.S.-origin for Iranian customers through an intermediary party in the Netherlands.

9. Pursuant to Section 764.2(g) of the Regulations, no person may make any false or misleading representation or statement, or falsify or conceal any material fact, either directly or indirectly to BIS or any official of any other U.S. Government agency in connection with an action subject to the Regulations as set forth in (g)(1)(i) or in connection with effecting an export, reexport or other activity subject to the Regulations as set forth in (g)(1)(iii).

10. In so doing, Charkhian committed one (1) violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Respondents have 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

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

IT IS THEREFORE ORDERED:

FIRST, that for a period of twelve (12) years from the date of this Order, Saeid Yahya Charkhian, with a last known address of Villa 5, Street 1, Arabian Ranches, Dubai, United Arab Emirates, and Caspian Industrial Machinery Supply LLC, No. 2509 Churchill Executive Tower, Business Bay, Dubai, United Arab Emirates, and when acting for or on their behalf, their successors, assigns, directors, officers, employees, representatives, or agents (each a “Denied Person” and collectively the “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 engaging 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 from 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 a Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person 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 a Denied Person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from a Denied Person 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 a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person 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 a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, all licenses issued pursuant to the Act or Regulations in which any of the Respondents had an interest as of the date of this Order are revoked.

FIFTH, Respondents shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or the Order. The foregoing does not affect Respondents' testimonial obligations in any

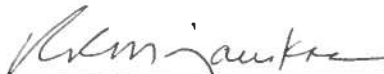


proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

SIXTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SEVENTH, that this Order shall be served on Respondents, and shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective immediately.

  
Richard R. Majauskas  
Deputy Assistant Secretary of Commerce  
for Export Enforcement performing the non-  
exclusive functions and duties of the  
Assistant Secretary of Commerce for Export  
Enforcement

Issued this 21<sup>st</sup> day of December, 2017.

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

In the Matter of:

Saeid Yahya Charkhian  
Villa 5, Street 1, Arabian Ranches  
Dubai, United Arab Emirates

17-BIS-0002

and

Caspian Industrial Machinery Supply LLC  
No. 2509 Churchill Executive Tower, Business  
Bay,  
Dubai, United Arab Emirates  
Attention: Saeid Yahya Charkhian

Respondents

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and among Saeid Yahya Charkhian, of Dubai, United Arab Emirates (“Charkhian”), and Caspian Industrial Machinery Supply LLC, of Dubai, United Arab Emirates (“Caspian”) (collectively the “Respondents”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup>

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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 (2017). The violations alleged occurred in 2012-2013. The Regulations governing the violations at issue are found in the 2012-2013 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2012-2013). The 2017 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. §§ 4601-4623 (Supp. III 2015). 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 15, 2017 (82 Fed. Reg. 39,005 (Aug. 16, 2017)), has

WHEREAS, BIS has initiated an administrative proceeding against Respondents pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a Charging Letter to Respondents that alleges that Charkhian committed four (4) violations of the Regulations and Caspian committed three (3) violations of the Regulations, specifically:

**As to both Charkhian and Caspian:**

**Charges 1-3 15 C.F.R. § 764.2(e) – Acting with Knowledge**

1. On at least three occasions between on or about March 27, 2012, and on or about October 5, 2013, Charkhian and Caspian (collectively, the “Respondents”) transferred, forwarded, ordered, bought and/or sold items subject to the Regulations and exported or to be exported from the United States to Iran, via the Netherlands and the United Arab Emirates (“UAE”), with knowledge<sup>3</sup> that a violation of the Regulations had occurred or was about or intended to occur in connection with the items. Specifically, the Respondents acted with knowledge of a violation of the Regulations when they sold, transferred and/or forwarded to, and/or ordered or bought for, end users in Iran items that the Respondents procured from the United States through an intermediary company located in the Netherlands. These U.S.-origin items, including masking wax, lithium batteries, and zirconia crucibles, were designated EAR99 under the Regulations<sup>4</sup> and valued in total at nearly \$190,000.
2. The Respondents’ actions violated the long-standing and widely-known U.S. embargo against Iran. Under Section 746.7 of the Regulations, BIS prohibits

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continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq.) (2012).

<sup>3</sup> Title 15 C.F.R. § 772.1 defines “knowledge” as “[k]nowledge of a circumstance (the term may be a variant, such as “know,” “reason to know,” or “reason to believe”) includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.

<sup>4</sup> “EAR99” is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

the export or reexport to Iran of any item subject to both the Regulations and the Iranian Transactions and Sanctions Regulations (“ITSR”), if the transaction is prohibited by the ITSR and has not been authorized by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), which administers the ITSR.<sup>5</sup> At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. This broad prohibition included restrictions on the exportation, reexportation, sale or supply of any goods, technology, or services from the United States to a third country, such as the Netherlands or the UAE, undertaken with knowledge or reason to know that they were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran. 31 C.F.R. § 560.204. As set further below, the Respondents knew that the items at issue were ultimately destined for Iran and they knew of the U.S. embargo against Iran, but they did not seek or obtain the required U.S. Government authorizations in connection with any of the exports or reexports described herein.

3. Charkhian, an Iranian national, personally participated in each of the transactions at issue and, in addition, was Managing Director and part owner of Caspian, a UAE trading company, at all times pertinent hereto. Upon information and belief, Charkhian has, in fact, been Managing Director of Caspian since in or about May 2001, when Caspian was formed in the UAE. Through the Respondents’ many years of business in the UAE, they were aware of the U.S. embargo against Iran at the times of the transactions at issue in 2012-2013. Moreover, the Respondents had specifically acknowledged the existence of the embargo, for example, when they completed an end-user agreement with a European subsidiary of a U.S. company that included statements related to the need for compliance with “U.S. Export Administration Regulations.”
4. Despite this knowledge, the Respondents sought to procure for and supply to customers in Iran U.S.-origin items without the required U.S. Government authorization and did so through transactions that they structured to conceal from U.S. suppliers the Respondents’ actual role in the transactions and that the items were ultimately destined for Iran. On or about March 27, 2012, the Respondents transferred or forwarded masking wax, an item subject to the Regulations and the ITSR and valued at \$2,570, from the UAE to Iran without the required U.S. Government authorization. The events leading to this knowing violation began in or about November 2011, when the Respondents received an inquiry from an Iranian entity seeking masking wax, a protective,

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<sup>5</sup> 31 C.F.R. Part 560 (2012-2013). The ITSR formerly were known as the Iranian Transactions Regulations (“ITR”). On October 22, 2012, OFAC renamed the ITR as the ITSR and reissued them in relevant part. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012).

strippable coating used in electroplating, for capping ends of tubing, and for sealing the ends of electric cables. The Respondents provided the request to a company in the Netherlands, which indicated that it “only [had a] source in USA for this product” but that the product was “on stock in the U.S.” and could be delivered in about two weeks. The Respondents’ Iranian customer Mavadkaran Jahed Noavar Company (“Mavadkaran”), which is part of the Iran-based conglomerate the MAPNA Group, subsequently issued a purchase order on or about February 13, 2012, to the Respondents for 100 lbs. of masking wax, which the Respondents then purchased from the United States through the Dutch reseller. Payment information indicates that the Respondents sold the items to Mavadkaran on or about February 21, 2012. The items were exported from the United States on or about February 23, 2012. After arriving in the Netherlands, the items were transshipped on or about March 14, 2012, to the Respondents in the UAE. On or about March 27, 2012, the Respondents then transferred or forwarded the items to Iran.

5. On a second occasion, between in or about July 2012, and in or about October 2012, the Respondents similarly ordered and bought lithium batteries from the United States through the same Dutch intermediary company and then sold, transferred and/or forwarded the batteries to an end user in Iran. The lithium batteries were subject to the Regulations and the ITSR and were valued in total at \$75,000. In or about January 2012, the Respondents had asked the Dutch company to provide a quote for six orders of 1,000 batteries which the Respondents’ customer had tested and sought for a pending project in Iran. After receiving pricing information from the Dutch company, the Respondents bought or ordered the 1,000 lithium batteries on or about July 15, 2012, which was followed by a pro forma invoice from the Dutch company to the Respondents for the 1,000 batteries about one month later. On or about October 3, 2012, the U.S. supplier, which had not been informed that the items were to be transshipped to Iran, filed an Automated Export System (“AES”) record indicating that 1,000 lithium batteries were being exported from the United States for the ultimate destination of the Netherlands. As part of email correspondence between on or about October 15-17, 2012, following the transshipment of the items from the Netherlands to the Respondents in the UAE, the Dutch company provided the Respondents a certificate of origin from the U.S. company confirming the items were of U.S.-origin, as well as an invoice identifying the items as manufactured in the United States. A Caspian invoice and packing list dated October 17, 2012, indicated that the Respondents were selling, transferring and/or forwarding 1,000 lithium batteries to a buyer in Tehran, Iran, that was related to the Iran National Oil Company<sup>6</sup> and Iran National Drilling Company,<sup>7</sup> both of which are Iranian-

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<sup>6</sup> Also known as National Iranian Oil Company or “NIOC.” NIOC was designated a Specially Designated National (“SDN”) by OFAC on December 4, 2008, but was

Government owned corporations. The invoice also confirmed that the items were of U.S.-origin. A few days later, in an email dated on or about October 29, 2012, an Iranian party confirmed that it had received the 1,000 lithium batteries from the Respondents.

6. Finally, on a third occasion, between in or about August 2013, and in or about October 2013, the Respondents ordered and bought approximately 196 flat bottom zirconia crucibles from the United States through the same Dutch intermediary company and then sold, transferred or forwarded the crucibles to an end user in Iran. The crucibles are subject to the Regulations and the ITSR, can be used in nuclear material casting, such as casting uranium, and were valued at \$112,000. The events leading up to this knowing violation began when the Respondents received an order request from Iranian company Mavadkaran on or about April 23, 2013. Mavadkaran requested that the purchase order be issued to Mapna International F.Z.E. (“Mapna”), a related company in the UAE, which was listed as the buyer instead of Mavadkaran. The Respondents’ pro forma invoice dated April 23, 2013, indicated that the items would be of U.S.-origin. On or about May 9, 2013, the Respondents forwarded the order request to the Dutch company, and approximately one week later the Respondents received a price quote for the items. On or about June 3, 2013, Mapna issued a purchase order to the Respondents stating that the items were to be delivered by vessel to Iran and that the Respondents should provide a certification of origin confirming the items were of U.S.-origin, certified by the local chamber of commerce. After the Dutch company placed a corresponding order with a U.S. supplier at the Respondents’ request, the zirconia crucibles were exported from the United States to the Netherlands on or about August 20, 2013. The Dutch company transshipped the items to the UAE on or about September 17, 2013. An email dated on or about October 5, 2013, from Charkhian to a customs broker indicated that the Respondents had forwarded or transferred the items for delivery to Iran.
7. In so doing, the Respondents committed three (3) violations of Section 764.2(e) of the Regulations and are jointly and severally liable for those violations.

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removed from the SDN List on January 16, 2016, as part of the Joint Comprehensive Plan of Action (“JCPOA”).

<sup>7</sup> Also known as the National Iranian Drilling Company or “NIDC.”

**As to Charkhian only:**

**Charge 4 15 C.F.R. § 764.2(g) – False or Misleading Statement**

8. On or about December 16, 2014, Charkhian made a false or misleading statement to BIS and other U.S. Government officials in connection with an action subject to the Regulations and/or in connection with effecting an export, reexport or other activity subject to the Regulations. While being interviewed by BIS on that date as part of a post-shipment verification (unrelated to Charges 1-3 above), Charkhian represented that he had never conducted any business with Iran at any time since 2001, and had not purchased anything from the United States during that time period. These statements contradicted the transactions and related transaction documents and correspondence detailed in Charges 1-3 above, which clearly indicate that at least on three occasions during 2012-2013, Charkhian and his company, Caspian, knowingly procured items from the United States or of U.S.-origin for Iranian customers through an intermediary party in the Netherlands.
9. Pursuant to Section 764.2(g) of the Regulations, no person may make any false or misleading representation or statement, or falsify or conceal any material fact, either directly or indirectly to BIS or any official of any other U.S. Government agency in connection with an action subject to the Regulations as set forth in (g)(1)(i) or in connection with effecting an export, reexport or other activity subject to the Regulations as set forth in (g)(1)(iii).
10. In so doing, Charkhian committed one (1) violation of Section 764.2(g) of the Regulations.

WHEREAS, Respondents have reviewed the Charging Letter and are aware of the allegations made against them and the administrative sanctions that could be imposed against them if the allegations are found to be true;

WHEREAS, Respondents fully understand 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, Respondents enter into this Agreement voluntarily and with full knowledge of their rights;

WHEREAS, Respondents state that no promises or representations have been made to them other than the agreements and considerations herein expressed;

WHEREAS, Respondents neither admit nor deny the allegations contained in the Charging Letter; and

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

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over Respondents, under the Regulations, in connection with the matters alleged in the Charging Letter.

2. The following sanctions shall be imposed against Respondents in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Charging Letter:

a. For a period of twelve (12) years from the date of the Order, Saeid Yahya Charkhian, with a last known address of Villa 5, Street 1, Arabian Ranches, Dubai, United Arab Emirates, and Caspian Industrial Machinery Supply LLC, No. 2509 Churchill Executive Tower, Business Bay, Dubai, United Arab Emirates, and when acting for or on their behalf, their successors, assigns, directors, officers, employees, representatives, or agents (each a "Denied Person" and collectively the "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:



- i. Applying for, obtaining, or using any license, license exception, or export control document;
- ii. 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 engaging in any other activity subject to the Regulations; or
- iii. 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 from any other activity subject to the Regulations.

b. All licenses issued pursuant to the Act or Regulations in which any of the Respondents had an interest as the date of the Order are revoked.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Respondents hereby waive 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. Respondents also waive and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the

transactions identified in the Charging Letter or enforcement of this Agreement and the Order, if issued, from the date of the Order.

4. Respondents shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or the Order. The foregoing does not affect Respondents' testimonial obligations in any proceeding, nor does it affect their right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

5. Upon issuance of this Order, BIS will not initiate any further administrative proceeding against Respondents in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Charging Letter.

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(b) 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.

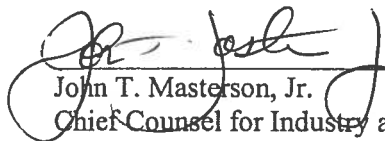
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department 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. BIS will make the Charging Letter, this Agreement, and the Order, if issued, available to the public.

10. 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


  
John T. Masterson, Jr.  
Chief Counsel for Industry and Security

SAEID YAHYA CHARKHIAN

  
Saeid Yahya Charkhian

Date: Dec 19, 2017

CASPIAN INDUSTRIAL MACHINERY  
SUPPLY LLC

  
Saeid Yahya Charkhian  
Managing Director  
Caspian Industrial Machinery Supply LLC

Date: 14 Dec. 2017



UNITED STATES DEPARTMENT OF COMMERCE  
Bureau of Industry and Security  
Washington, D.C. 20230

MAR 17 2017

CHARGING LETTER

BY FEDERAL EXPRESS

Saeid Yahya Charkhian  
Villa 5, Street 1, Arabian Ranches  
Dubai, United Arab Emirates

Caspian Industrial Machinery Supply LLC  
No. 2509 Churchill Executive Tower, Business Bay,  
Dubai, United Arab Emirates  
Attention: Saeid Yahya Charkhian

Dear Mr. Charkhian:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Saeid Yahya Charkhian (“Charkhian”), of Dubai, United Arab Emirates (“UAE”), have committed four (4) violation(s) of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> In addition, BIS has reason to believe that your company, Caspian Industrial Machinery Supply LLC (“Caspian”), also of Dubai, UAE, has committed three (3) violations of the Regulations. Specifically, BIS alleges the following violations:

*As to both Charkhian and Caspian:*

**Charges 1-3 15 C.F.R. § 764.2(e) – Acting with Knowledge**

1. On at least three occasions between on or about March 27, 2012, and on or about October 5, 2013, Charkhian and Caspian (collectively, the “Respondents”) transferred, forwarded, ordered, bought and/or sold items subject to the Regulations and exported or to be exported from the United

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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 (2016). The violations alleged occurred in 2012-2013. The Regulations governing the violations at issue are found in the 2012-2013 version of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2012-2013). The 2016 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. §§ 4601-4623. 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 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).



States to Iran, via the Netherlands and the UAE, with knowledge<sup>3</sup> that a violation of the Regulations had occurred or was about or intended to occur in connection with the items. Specifically, the Respondents acted with knowledge of a violation of the Regulations when they sold, transferred and/or forwarded to, and/or ordered or bought for, end users in Iran items that the Respondents procured from the United States through an intermediary company located in the Netherlands. These U.S.-origin items, including masking wax, lithium batteries, and zirconia crucibles, were designated EAR99 under the Regulations<sup>4</sup> and valued in total at nearly \$190,000.

2. The Respondents' actions violated the long-standing and widely-known U.S. embargo against Iran. Under Section 746.7 of the Regulations, BIS prohibits the export or reexport to Iran of any item subject to both the Regulations and the Iranian Transactions and Sanctions Regulations ("ITSR"), if the transaction is prohibited by the ITSR and has not been authorized by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), which administers the ITSR.<sup>5</sup> At all times pertinent hereto, the ITSR prohibited, *inter alia*, the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. This broad prohibition included restrictions on the exportation, reexportation, sale or supply of any goods, technology, or services from the United States to a third country, such as the Netherlands or the UAE, undertaken with knowledge or reason to know that they were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran. 31 C.F.R. § 560.204. As set further below, the Respondents knew that the items at issue were ultimately destined for Iran and they knew of the U.S. embargo against Iran, but they did not seek or obtain the required U.S. Government authorizations in connection with any of the exports or reexports described herein.
3. Charkhian, an Iranian national, personally participated in each of the transactions at issue and, in addition, was Managing Director and part owner of Caspian, a UAE trading company, at all times pertinent hereto. Upon

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<sup>3</sup> Title 15 C.F.R. § 772.1 defines "knowledge" as "[k]nowledge of a circumstance (the term may be a variant, such as "know," "reason to know," or "reason to believe") includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.

<sup>4</sup> "EAR99" is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

<sup>5</sup> 31 C.F.R. Part 560 (2012-2013). The ITSR formerly were known as the Iranian Transactions Regulations ("ITR"). On October 22, 2012, OFAC renamed the ITR as the ITSR and reissued them in relevant part. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012).

information and belief, Charkhian has, in fact, been Managing Director of Caspian since in or about May 2001, when Caspian was formed in the UAE. Through the Respondents' many years of business in the UAE, they were aware of the U.S. embargo against Iran at the times of the transactions at issue in 2012-2013. Moreover, the Respondents had specifically acknowledged the existence of the embargo, for example, when they completed an end-user agreement with a European subsidiary of a U.S. company that included statements related to the need for compliance with "U.S. Export Administration Regulations."

4. Despite this knowledge, the Respondents sought to procure for and supply to customers in Iran U.S.-origin items without the required U.S. Government authorization and did so through transactions that they structured to conceal from U.S. suppliers the Respondents' actual role in the transactions and that the items were ultimately destined for Iran. On or about March 27, 2012, the Respondents transferred or forwarded masking wax, an item subject to the Regulations and the ITSR and valued at \$2,570, from the UAE to Iran without the required U.S. Government authorization. The events leading to this knowing violation began in or about November 2011, when the Respondents received an inquiry from an Iranian entity seeking masking wax, a protective, strippable coating used in electroplating, for capping ends of tubing, and for sealing the ends of electric cables. The Respondents provided the request to a company in the Netherlands, which indicated that it "only [had a] source in USA for this product" but that the product was "on stock in the U.S." and could be delivered in about two weeks. The Respondents' Iranian customer Mavadkaran Jahed Noavar Company ("Mavadkaran"), which is part of the Iran-based conglomerate the MAPNA Group, subsequently issued a purchase order on or about February 13, 2012, to the Respondents for 100 lbs. of masking wax, which the Respondents then purchased from the United States through the Dutch reseller. Payment information indicates that the Respondents sold the items to Mavadkaran on or about February 21, 2012. The items were exported from the United States on or about February 23, 2012. After arriving in the Netherlands, the items were transshipped on or about March 14, 2012, to the Respondents in the UAE. On or about March 27, 2012, the Respondents then transferred or forwarded the items to Iran.
5. On a second occasion, between in or about July 2012, and in or about October 2012, the Respondents similarly ordered and bought lithium batteries from the United States through the same Dutch intermediary company and then sold, transferred and/or forwarded the batteries to an end user in Iran. The lithium batteries were subject to the Regulations and the ITSR and were valued in total at \$75,000. In or about January 2012, the Respondents had asked the Dutch company to provide a quote for six orders of 1,000 batteries which the Respondents' customer had tested and sought for a pending project in Iran.

After receiving pricing information from the Dutch company, the Respondents bought or ordered the 1,000 lithium batteries on or about July 15, 2012, which was followed by a pro forma invoice from the Dutch company to the Respondents for the 1,000 batteries about one month later. On or about October 3, 2012, the U.S. supplier, which had not been informed that the items were to be transshipped to Iran, filed an Automated Export System (“AES”) record indicating that 1,000 lithium batteries were being exported from the United States for the ultimate destination of the Netherlands. As part of email correspondence between on or about October 15-17, 2012, following the transshipment of the items from the Netherlands to the Respondents in the UAE, the Dutch company provided the Respondents a certificate of origin from the U.S. company confirming the items were of U.S. origin, as well as an invoice identifying the items as manufactured in the United States. A Caspian invoice and packing list dated October 17, 2012, indicated that the Respondents were selling, transferring and/or forwarding 1,000 lithium batteries to a buyer in Tehran, Iran, that was related to the Iran National Oil Company<sup>6</sup> and Iran National Drilling Company,<sup>7</sup> both of which are Iranian-Government owned corporations. The invoice also confirmed that the items were of U.S. origin. A few days later, in an email dated on or about October 29, 2012, an Iranian party confirmed that it had received the 1,000 lithium batteries from the Respondents.

6. Finally, on a third occasion, between in or about August 2013, and in or about October 2013, the Respondents ordered and bought approximately 196 flat bottom zirconia crucibles from the United States through the same Dutch intermediary company and then sold, transferred or forwarded the crucibles to an end user in Iran. The crucibles are subject to the Regulations and the ITSR, can be used in nuclear material casting, such as casting uranium, and were valued at \$112,000. The events leading up to this knowing violation began when the Respondents received an order request from Iranian company Mavadkaran on or about April 23, 2013. Mavadkaran requested that the purchase order be issued to Mapna International F.Z.E. (“Mapna”), a related company in the UAE, which was listed as the buyer instead of Mavadkaran. The Respondents’ pro forma invoice dated April 23, 2013, indicated that the items would be of U.S.-origin. On or about May 9, 2013, the Respondents forwarded the order request to the Dutch company, and approximately one week later the Respondents received a price quote for the items. On or about June 3, 2013, Mapna issued a purchase order to the Respondents stating that the items were to be delivered by vessel to Iran and that the Respondents

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<sup>6</sup> Also known as National Iranian Oil Company or “NIOC.” NIOC was designated a Specially Designated National (“SDN”) by OFAC on December 4, 2008, but was removed from the SDN List on January 16, 2016, as part of the Joint Comprehensive Plan of Action (“JCPOA”).

<sup>7</sup> Also known as the National Iranian Drilling Company or “NIDC.”

should provide a certification of origin confirming the items were of U.S.-origin, certified by the local chamber of commerce. After the Dutch company placed a corresponding order with a U.S. supplier at the Respondents' request, the zirconia crucibles were exported from the United States to the Netherlands on or about August 20, 2013. The Dutch company transshipped the items to the UAE on or about September 17, 2013. An email dated on or about October 5, 2013, from Charkhian to a customs broker indicated that the Respondents had forwarded or transferred the items for delivery to Iran.

7. In so doing, the Respondents committed three (3) violations of Section 764.2(e) of the Regulations and are jointly and severally liable for those violations.

**As to Charkhian only:**

**Charge 4      15 C.F.R. § 764.2(g) – False or Misleading Statement**

8. On or about December 16, 2014, Charkhian made a false or misleading statement to BIS and other U.S. Government officials in connection with an action subject to the Regulations and/or in connection with effecting an export, reexport or other activity subject to the Regulations. While being interviewed by BIS on that date as part of a post-shipment verification (unrelated to Charges 1-3 above), Charkhian represented that he had never conducted any business with Iran at any time since 2001, and had not purchased anything from the United States during that time period. These statements contradicted the transactions and related transaction documents and correspondence detailed in Charges 1-3 above, which clearly indicate that at least on three occasions during 2012-2013, Charkhian and his company, Caspian, knowingly procured items from the United States or of U.S.-origin for Iranian customers through an intermediary party in the Netherlands.
9. Pursuant to Section 764.2(g) of the Regulations, no person may make any false or misleading representation or statement, or falsify or conceal any material fact, either directly or indirectly to BIS or any official of any other U.S. Government agency in connection with an action subject to the Regulations as set forth in (g)(1)(i) or in connection with effecting an export, reexport or other activity subject to the Regulations as set forth in (g)(1)(iii).
10. In so doing, Charkhian committed one (1) violation of Section 764.2(g) of the Regulations.



Accordingly, the Respondents are hereby notified that an administrative proceeding is instituted against them 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, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$289,238 per violation,<sup>8</sup> or twice the value of the transaction that is the basis of the violation;<sup>9</sup>
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If the Respondents fail 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. If the Respondents default, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to the Respondents. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

The Respondents are further notified that they are entitled to an agency hearing on the record if they file a written demand for one with their answer. *See* 15 C.F.R. § 766.6. The Respondents are also entitled to be represented by counsel or other authorized representative who has power of attorney to represent them. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should the Respondents have a proposal to settle this case, the Respondents should transmit it to the attorney representing BIS named below.

The Respondents are further notified that under the Small Business Regulatory Enforcement Flexibility Act, the Respondents 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/>.

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<sup>8</sup> *See* 15 C.F.R. § 6.4(b)(4). This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. *See* 81 Fed. Reg. 95432, 95434 (Dec. 28, 2016) (Adjusting for inflation the maximum civil monetary penalty under IEEPA from \$284,582 to \$289,238, effective January 15, 2017).

<sup>9</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Saeid Yahya Charkhian  
Caspian Industrial Machinery Supply LLC  
Charging Letter  
Page 7 of 7

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, the Respondents' 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

In addition, a copy of the Respondents' answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: R. Elizabeth Abraham  
Room H-3839  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

R. Elizabeth Abraham is the attorney representing BIS in this case; any communications that the Respondents may wish to have concerning this matter should occur through her. Ms. Abraham may be contacted by telephone at (202) 482-8050.

Sincerely,



Douglas R. Hassebrock  
Director  
Office of Export Enforcement