

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

In the Matter of:)
)
Matthew Ayadpoor)
9700 Mayview Court)
Oklahoma City, Oklahoma, 73159)
)
)
Respondent _____)

ORDER RELATING TO MATTHEW AYADPOOR

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Matthew Ayadpoor (“Ayadpoor”), of its intention to initiate an administrative proceeding against Ayadpoor pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a proposed charging letter to Ayadpoor that alleged that he committed four violations of the Regulations. Specifically, these charges are:

Charge 1 15 C.F.R. §764.2(c) – Solicitation and Attempt

On or about June 2, 2004, Ayadpoor engaged in conduct prohibited by the Regulations by attempting to have piston-type differential pressure gauges, which is subject to the Regulations and classified as EAR99, exported to Iran without the required U.S. Government authorization.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations alleged occurred 2004. The Regulations governing the allegation at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations govern the procedural aspects of the case.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, has been in lapse and the President, through 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 July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§1701-1706 (2000)).

Specifically, Ayadpoor ordered a freight forwarding company to export the gauges to Iran via the United Arab Emirates (“UAE”). Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export described herein. In engaging in the activity described herein, Ayadpoor committed one violation of Section 764.2(c) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

In connection with charge one above, on or about June 4, 2004, Ayadpoor violated the Regulations by ordering the export of items subject to the Regulations from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Ayadpoor attempted to export items subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran via the UAE without the required U.S. Government authorization. Ayadpoor had knowledge that U.S. products could not be sold to sanctioned countries, including Iran, a fact he acknowledged to Office of Export Enforcement (“OEE”) special agents. Additionally, Ayadpoor negotiated for the items with persons in Iran, knowing that the items would be shipped there via the UAE. In so doing, Ayadpoor committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. §764.2(g) – Misrepresentation and Concealment of Facts

On or about September 8, 2004, Ayadpoor made a false and/or misleading statement to OEE special agents in the course of an investigation subject to the Regulations. Specifically, Ayadpoor told the agents that he had not participated in any export transactions with the UAE company associated with the June 2004 transaction since that transaction. This was a false statement in that on or about August 31, 2004, Ayadpoor ordered that a second shipment of gauges be exported to the same UAE company. In so doing, Ayadpoor committed one violation of Section 764.2(g) of the Regulations.

Charge 4 15 C.F.R. §764.2(i) – Failure to Comply with Recordkeeping Requirements

On or about September 8, 2004, Ayadpoor failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Ayadpoor failed to retain export control documents, including waybills, and/or other pertinent documents in connection with its export of gauges, described in Charge 3, above. In so doing, Ayadpoor committed one violation of Section 764.2(i) of the Regulations.

WHEREAS, BIS and Ayadpoor 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, Ayadpoor shall be assessed a civil penalty in the amount of \$25,000, the payment of which shall be suspended for a period of one (1) year from the date of entry of the Order, and thereafter shall be waived, provided that during the period of suspension, Ayadpoor has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, that for a period of one (1) year from the date of entry of the Order, Ayadpoor, his representatives, assigns or agents (“Denied Person”) may not participate, directly or indirectly, 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 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 in any other activity subject to the Regulations.

THIRD, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by the 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 the 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 the Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from the 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 the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from

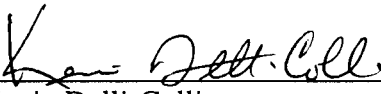
the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

FOURTH, 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 Ayadpoor 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 this Order.

FIFTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

SIXTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*.

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



Kevin Delli-Colli
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 15th day of May, 2009.

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

In the Matter of:)
)
)
)
Matthew Ayadpoor)
9700 Mayview Court)
Oklahoma City, Oklahoma, 73159)
)
)

Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Matthew Ayadpoor (“Ayadpoor”), 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 (2009)) (the “Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),²

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

¹ The violations alleged to have been committed occurred in 2004. The Regulations governing the violations at issue are found in the 2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2009 Regulations establish the procedures that apply to this matter.

² 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. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 Fed. Reg. 43603 (July 25, 2008)), continues 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 Ayadpoor that alleged that he committed four violations of the Regulations, specifically:

Charge 1 15 C.F.R. §764.2(c) – Solicitation and Attempt

On or about June 2, 2004, Ayadpoor engaged in conduct prohibited by the Regulations by attempting to have piston-type differential pressure gauges, which is subject to the Regulations and classified as EAR99, exported to Iran without the required U.S. Government authorization. Specifically, Ayadpoor ordered a freight forwarding company to export the gauges to Iran via the United Arab Emirates (“UAE”). Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export described herein. In engaging in the activity described herein, Ayadpoor committed one violation of Section 764.2(c) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) – Acting with Knowledge of a Violation

In connection with Charge One above, on or about June 4, 2004, Ayadpoor violated the Regulations by ordering the export of items subject to the Regulations from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Ayadpoor attempted to export items subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran via the UAE without the required U.S. Government authorization. Ayadpoor had knowledge that U.S. products could not be sold to sanctioned countries, including Iran, a fact he acknowledged to Office of Export Enforcement (“OEE”) special agents. Additionally, Ayadpoor negotiated for the items with persons in Iran, knowing that the items would be shipped there via the UAE. In so doing, Ayadpoor committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. §764.2(g) – Misrepresentation and Concealment of Facts

On or about September 8, 2004, Ayadpoor made a false and/or misleading statement to OEE special agents in the course of an investigation subject to the Regulations. Specifically, Ayadpoor told the agents that he had not participated in any export transactions with the UAE company associated with the June 2004 transaction since that transaction. This was a false statement in that on or about August 31, 2004, Ayadpoor ordered that a second shipment of gauges be exported to the same UAE company. In so doing, Ayadpoor committed one violation of Section 764.2(g) of the Regulations.

Charge 4 15 C.F.R. §764.2(i) – Failure to Comply with Recordkeeping Requirements

On or about September 8, 2004, Ayadpoor failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Ayadpoor failed to retain export control documents, including waybills, and/or other pertinent documents in connection with its export of gauges, described in Charge Three, above. In so doing, Ayadpoor committed one violation of Section 764.2(i) of the Regulations.

WHEREAS, Ayadpoor has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Ayadpoor 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, Ayadpoor enters into this Agreement voluntarily and with full knowledge of his rights;

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

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

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

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

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

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

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

a. Ayadpoor shall be assessed a civil penalty in the amount of \$25,000, the payment of which shall be suspended for a period of one (1) year from the date of entry of the Order, and thereafter shall be waived, provided that during the period of suspension, Ayadpoor has committed no violation of the Act, or any regulation, order, or license issued thereunder.

b. For a period of one (1) year from the date of entry of the Order, Ayadpoor, his representatives, assigns or agents (“Denied Person”) may not participate, directly or indirectly, 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 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 in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Ayadpoor 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 any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Bis agrees that, upon entry of the Order, it will not initiate any further administrative proceeding against Ayadpoor 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.

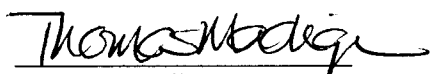
6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial 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 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 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.

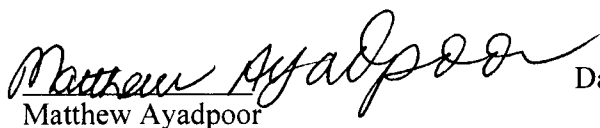
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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



Thomas Madigan
Director
Office of Export Enforcement

Date: May 13, 2009



Matthew Ayadpoor

Date: 05/05/2009

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Matthew Ayadpoor
11916 Blue Haven Court
Oklahoma City, OK 73162

Dear Mr. Ayadpoor:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Matthew Ayadpoor, owner/operator of Heartland Exporting and doing business as Heartland Express, of Oklahoma City, OK, in your individual capacity (hereinafter "Ayadpoor"), have committed four violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979, as amended (the "Act").² Specifically, BIS charges that Ayadpoor committed the following violations:

Charge 1 15 C.F.R. §764.2(c) – Solicitation and Attempt

On or about June 2, 2004, Ayadpoor engaged in conduct prohibited by the Regulations by attempting to have piston-type differential pressure gauges, which is subject to the Regulations and classified as EAR99, exported to Iran without the required U.S. Government authorization. Specifically, Ayadpoor ordered a freight forwarding company to export the gauges to Iran via the United Arab Emirates ("UAE"). Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The alleged 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 2007 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). 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 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

described herein. In engaging in the activity described herein, Ayadpoor committed one violation of Section 764.2(c) of the Regulations.

Charge 2 15 C.F.R. §764.2(e) – Acting with knowledge of a violation

In connection with charge one above, on or about June 4, 2004, Ayadpoor violated the Regulations by ordering the export of items subject to the Regulations from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Ayadpoor attempted to export items subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran via the UAE without the required U.S. Government authorization. Ayadpoor had knowledge that U.S. products could not be sold to sanctioned countries, including Iran, a fact he acknowledged to Office of Export Enforcement (“OEE”) special agents. Additionally, Ayadpoor negotiated for the items with persons in Iran, knowing that the items would be shipped there via the UAE. In so doing, Ayadpoor committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. §764.2(g) – Misrepresentation and Concealment of Facts

On or about September 8, 2004, Ayadpoor made a false and/or misleading statement to OEE special agents in the course of an investigation subject to the Regulations. Specifically, Ayadpoor told the agents that he had not participated in any export transactions with the UAE company associated with the June 2004 transaction since that transaction. This was a false statement in that on or about August 31, 2004, Ayadpoor ordered that a second shipment of gauges be exported to the same UAE company. In so doing, Ayadpoor committed one violation of Section 764.2(g) of the Regulations.

Charge 4 15 C.F.R. §764.2(i) – Failure to comply with Recordkeeping Requirements

On or about September 8, 2004, Ayadpoor failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations. Specifically, Ayadpoor failed to retain export control documents, including waybills, and/or other pertinent documents in connection with its export of gauges, described in Charge 3, above. In so doing, Ayadpoor committed one violation of Section 764.2(i) of the Regulations.

* * * * *

Accordingly, Ayadpoor is hereby notified that an administrative proceeding is instituted against him 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;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Ayadpoor 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 (2006). If Ayadpoor defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Ayadpoor. 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.

Ayadpoor is further notified that he is entitled to an agency hearing on the record if he files a written demand for one with his answer. *See* 15 C.F.R. § 766.6 (2006). Ayadpoor is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. 15 C.F.R. §§ 766.3(a) and 766.4 (2007).

Ayadpoor is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, he 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 (2007). Should Ayadpoor have a proposal to settle this case, Ayadpoor or his representative should transmit it through the attorney representing BIS, who is named below.

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

³ *See* 15 C.F.R. § 6.4(a)(4) (2004).

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

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

Adrienne Frazier is the attorney representing BIS in this case; any communications that Ayadpoor may wish to have concerning this matter should occur through her. Ms. Frazier may be contacted by telephone at (202) 482-5301.

Sincerely,

John McKenna
Acting Director
Office of Export Enforcement