

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

In the Matter of:)
)
Robert E. Quinn)
3212 Pembroke Place)
Lexington, Kentucky 40509)
)
Respondent)

ORDER RELATING TO ROBERT E. QUINN

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Robert E. Quinn (“Quinn”), former Vice-President of Global Parts Marketing for Clark Material Handling Company (“CMHC”), of its intention to initiate an administrative proceeding against Quinn pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2009)) (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”),² through issuance of a Proposed Charging Letter to Quinn that alleged that Quinn committed one violation of the Regulations. Specifically, this charge is:

¹ The alleged violation occurred in December 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 2009 Regulations govern the procedural aspects of this case.

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. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (“IEEPA”).

Charge 1 15 C.F.R. § 764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement (“OEE”) investigation regarding the unauthorized export of truck parts, items subject to the Regulations and classified as EAR99,³ from the United States to Iran, Quinn represented to an OEE Special Agent that he was unaware of any shipments of CMHC parts to a company in the United Arab Emirates (“UAE”) or of any shipments of such parts to the UAE company that were subsequently shipped to Iran. Quinn also represented that he had not coordinated any shipments of CMHC items to Iran. These statements were false, as Quinn had participated in the export of CMHC parts to Iran via a UAE company during 2003. Specifically, on several occasions in 2003, Quinn arranged to fill orders for CMHC parts that he knew had been placed by an Iranian company. Quinn communicated with a UAE company regarding the parts, which were sent to the UAE company and later shipped to Iran. In so doing, Quinn committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, BIS and Quinn 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;

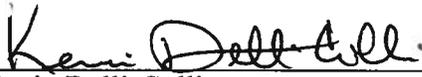
IT IS THEREFORE ORDERED:

FIRST, Quinn shall be assessed a civil penalty in the amount of \$11,000, all of which shall be suspended for a period of one year from the date of issuance of the Order and thereafter shall be waived, provided that during the period of suspension, Quinn has committed no violation of the Act, or any regulation, order, or license issued thereunder.

³ EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

SECOND, 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.



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

Issued this 28th day of January, 2010.

WHEREAS, BIS has issued a Proposed Charging Letter to Quinn that alleged that Quinn committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement (“OEE”) investigation regarding the unauthorized export of truck parts, items subject to the Regulations and classified as EAR99,³ from the United States to Iran, Quinn represented to an OEE Special Agent that he was unaware of any shipments of CMHC parts to a company in the United Arab Emirates (“UAE”) or of any shipments of such parts to the UAE company that were subsequently shipped to Iran. Quinn also represented that he had not coordinated any shipments of CMHC items to Iran. These statements were false, as Quinn had participated in the export of CMHC parts to Iran via a UAE company during 2003. Specifically, on several occasions in 2003, Quinn arranged to fill orders for CMHC parts that he knew had been placed by an Iranian company. Quinn communicated with a UAE company regarding the parts, which were sent to the UAE company and later shipped to Iran. In so doing, Quinn committed one violation of Section 764.2(g) of the Regulations.

WHEREAS, Quinn has reviewed the Proposed Charging Letter and is aware of the allegations made against him and the administrative sanctions that could be imposed against him if the allegations are found to be true;

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

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

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WHEREAS, Quinn 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 Quinn, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. The following sanction shall be imposed against Quinn in complete settlement of the alleged violation of the Regulations relating to the transactions specifically identified in the Proposed Charging Letter:

a. Quinn shall be assessed a civil penalty in the amount of \$11,000, all of which shall be suspended for a period of one year from the date of issuance of the Order and thereafter shall be waived, provided that during the period of suspension, Quinn has committed no violation of the Act, or any regulation, order, or license issued thereunder.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Quinn 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, BIS will not initiate any further administrative proceeding against Quinn in connection with any violation of the Act or the Regulations arising out of the transactions specifically identified in 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



Thomas Madigan
Director
Office of Export Enforcement

Date: 1/21/2010, 2010

ROBERT E. QUINN



Date: 1/13, 2010

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Robert E. Quinn
3212 Pembroke Place
Lexington, Kentucky 40509

Dear Mr. Quinn:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Robert E. Quinn (“Quinn”), former Vice-President of Global Parts Marketing for Clark Material Handling Company (“CMHC”) of Lexington, Kentucky, have committed one violation 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 Quinn committed the following violation:

Charge 1 15 C.F.R. § 764.2(g) - False Statements to an Office of Export Enforcement Special Agent in the Course of an Investigation

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement (“OEE”) investigation regarding the unauthorized export of truck parts, items subject to the Regulations and classified as EAR99,³ from the United States to Iran, Quinn represented to an OEE Special Agent that he was unaware of any shipments of CMHC parts to a company in the United Arab Emirates (“UAE”) or of any shipments of such parts to the UAE company that were subsequently shipped to Iran. Quinn also represented that he had not coordinated any shipments of CMHC items to Iran. These statements were false, as Quinn had participated in the export of CMHC parts to Iran via a UAE company during 2003. Specifically, on several occasions in 2003, Quinn arranged to fill orders for CMHC parts that he knew had been placed by an Iranian company. Quinn communicated with a UAE company

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³ EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

regarding the parts, which were sent to the UAE company and later shipped to Iran. In so doing, Quinn committed one violation of Section 764.2(g) of the Regulations.

* * * * *

Accordingly, Quinn 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 the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;⁴
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Quinn 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. Quinn is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. *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 Quinn have a proposal to settle this case, Quinn should transmit it to the attorney representing BIS named below.

Quinn is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Quinn 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/>.

⁴ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Robert E Quinn
Proposed Charging Letter
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The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Quinn'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

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

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement