

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

In the Matter of:)	
)	
Aqua-Loop Cooling Towers, Co.)	09-BIS-006
P.O. Box 966)	
Folsom, CA 95763)	
)	
and)	
)	
116 Hopper Lane)	
Folsom, CA 95630)	
)	
Respondent)	

ORDER RELATING TO AQUA-LOOP COOLING TOWERS, CO.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), initiated this administrative proceeding against Aqua-Loop Cooling Towers, Co. (“Aqua-Loop”) 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 and filing of a charging letter as to Aqua-Loop that alleges that Aqua-Loop has committed five violations of the Regulations (“Charging Letter”). Specifically, these charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The violations occurred in 2004 and 2005. The Regulations governing the violation at issue are found in the 2004 and 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004 - 2005)). The 2009 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 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 August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (“IEEPA”).

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Iran without the Required Licenses

Beginning at least in or about June 2004, and continuing through at least in or about April 2005, Aqua-Loop conspired or acted in concert with others, known and unknown, to violate the Regulations or to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items subject to the Regulations from the United States to Iran, via the United Arab Emirates (“U.A.E.”), without the required U.S. Government 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 (“ITR”),³ without authorization from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR.

In furtherance of the conspiracy, the conspirators, including Aqua-Loop, participated in a scheme to have Aqua-Loop source or obtain the items from a U.S. distributor, and then to have Aqua-Loop export the items to an Iranian customer and co-conspirator, Parto Abgardan Cooling Towers Co. (“Parto Abgardan”), in Iran through a U.A.E. entity identified by Parto Abgardan. In furtherance of the scheme, Aqua-Loop obtained from Parto Abgardan information regarding items Parto Abgardan sought to have exported from the United States to Iran. Aqua-Loop then obtained such items and facilitated their export to Parto Abgardan in Iran. Pursuant to the conspiracy, various items were exported to Parto Abgardan in Iran, including the items discussed in Charges 2-5, below, for which no OFAC authorization was sought or obtained.

In addition, the co-conspirators sought to bring about the export to Iran of other items subject to the Regulations. On or about December 21, 2004, Parto Abgardan informed Aqua-Loop that it had contacted a U.S. company regarding the purchase of a filament winding machine. Parto Abgardan told Aqua-Loop, “Since they can’t sell directly to Iran, they are OK with selling it domestically and then we can transfer it from US to Dubai and then to Iran. With your permission we are going to give Aqua-Loop’s information to them so they can send you their offer” based on the technical information provided to the U.S. company by Parto Abgardan. Thereafter, on or about December 23, 2004, Aqua-Loop’s president, writing on Aqua-Loop stationery, responded, that he would be “more than happy if I can be of assistance on your purchase of filament winding machines. Please let me know the detail, so I can pursue.” In furtherance of the conspiracy, Parto Abgardan and Aqua-Loop continued to work together to accomplish this transaction; on or about January 31, 2005, Parto Abgardan provided Aqua-Loop with Parto Abgardan’s contact at the U.S. filament winding machine company, and asked that Aqua-Loop contact the U.S. company. On or about February 1, 2005, Aqua-Loop’s president again wrote to Parto Abgardan, stating that he had had a “long conversation” with the U.S. company’s representative and that “I should emphasize that I found this lady a bit reluctant on the subject of export the unit to Iran, but she sound OK to work with us, if we do not mention any thing about Iran.”

In so doing, Aqua-Loop committed one violation of Section 764.2(d) of the Regulations.

³ 31 C.F.R. Part 560.

Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding or Abetting

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop caused, aided or abetted the doing of an act prohibited by the Regulations by facilitating or coordinating the export of approximately 174 rolls of hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as EAR99 items,⁴ through the U.A.E. to Iran without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR maintained by 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 ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop took this action after having been asked by Parto Abgardan, an Iranian company, to arrange for the export of the items to Iran “via Dubai.” Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, “c/o Parto Abgardan,” was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

In so doing, Aqua-Loop committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed items to be exported from the United States with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed approximately 174 rolls of hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as EAR99, which Aqua-Loop knew would be exported to Iran via the U.A.E. without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, 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 ITR without authorization from OFAC. Aqua-Loop knew that no OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law.

⁴ 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).

Aqua-Loop's president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop's president referred to this type of activity as "diverting" items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop had issued a letter to Parto Abgardan stating, "I am trying to find a way to send the components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . . Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai."

In so doing, Aqua-Loop committed one violation of Section 764.2(e) of the Regulations.

Charge 4 15 C.F.R. § 764.2(b) – Causing, Aiding or Abetting

Between on or about February 9, 2005, and on or about April 19, 2005, Aqua-Loop caused, aided or abetted the doing of an act prohibited by the Regulations by facilitating or coordinating the export of approximately 185 rolls of hog hair filter media, part number HHB60130 and valued at approximately \$9,838.30, items which are subject to the Regulations and designated as EAR99 items, through the U.A.E. to Iran without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR maintained by 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 ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Specifically, after exporting certain hog hair filter media to Parto Abgardan in Iran, as described in Charges 2-3, Aqua-Loop was informed by Parto Abgardan that the items were not exactly the same as a sample Aqua-Loop's president had brought to Parto Abgardan before the transaction described in Charges 2-3 occurred. Aqua-Loop received from Parto Abgardan a piece of the original sample as well as a piece of the items described in Charges 2-3. Aqua-Loop then provided both pieces to the U.S. distributor, and placed a new order for 185 rolls of hog hair filter media, part number HHB60130, with the U.S. distributor. Aqua-Loop arranged for the U.S. distributor to supply the items, which were destined for Iran, to a freight forwarder for initial shipment to the U.A.E., "c/o Parto Abgardan." Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, "c/o Parto Abgardan," was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

In so doing, Aqua-Loop committed one violation of Section 764.2(b) of the Regulations.

Charge 5 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

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Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law. Aqua-Loop's president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop's president referred to this type of activity as "diverting" items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop's president had issued a letter to Parto Abgardan, on Aqua-Loop stationery, stating, "I am trying to find a way to send the components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . . Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai."

In so doing, Aqua-Loop committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Aqua-Loop 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, Aqua-Loop shall be assessed a civil penalty in the amount of \$100,000, the payment of which shall be suspended for a period of ten (10) years from the date of this Order, and thereafter shall be waived, provided that during the period of suspension, Aqua-Loop has committed no violation of the Act, or any regulation, order, or license issued thereunder.

SECOND, that for a period of ten (10) years from the date of this Order, Aqua-Loop, 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 Aqua-Loop 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 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 25 day of March, 2010.

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

_____)	
In the Matter of:)	
)	
Aqua-Loop Cooling Towers, Co.)	09-BIS-006
P.O. Box 966)	
Folsom, CA 95763)	
)	
and)	
)	
116 Hopper Lane)	
Folsom, CA 95630)	
)	
_____ Respondent)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Aqua-Loop Cooling Towers, Co. (“Aqua-Loop”) 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 (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 initiated this administrative proceeding by issuing and filing a charging letter as to Aqua-Loop on July 23, 2009 (“Charging Letter”), and provided

¹ The violations alleged to have been committed occurred in 2004 and 2005. The Regulations governing the violation at issue are found in the 2004 and 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004 - 2005)). The 2009 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 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 Fed. Reg. 41,325 (Aug. 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (“IEEPA”). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.

notice to Aqua-Loop of the issuance of the Charging Letter pursuant to Part 766 of the Regulations;

WHEREAS, the Charging Letter alleges that Aqua-Loop has committed five violations of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Iran without the Required Licenses

Beginning at least in or about June 2004, and continuing through at least in or about April 2005, Aqua-Loop conspired or acted in concert with others, known and unknown, to violate the Regulations or to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items subject to the Regulations from the United States to Iran, via the United Arab Emirates (“U.A.E.”), without the required U.S. Government 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 (“ITR”),³ without authorization from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR.

In furtherance of the conspiracy, the conspirators, including Aqua-Loop, participated in a scheme to have Aqua-Loop source or obtain the items from a U.S. distributor, and then to have Aqua-Loop export the items to an Iranian customer and co-conspirator, Parto Abgardan Cooling Towers Co. (“Parto Abgardan”), in Iran through a U.A.E. entity identified by Parto Abgardan. In furtherance of the scheme, Aqua-Loop obtained from Parto Abgardan information regarding items Parto Abgardan sought to have exported from the United States to Iran. Aqua-Loop then obtained such items and facilitated their export to Parto Abgardan in Iran. Pursuant to the conspiracy, various items were exported to Parto Abgardan in Iran, including the items discussed in Charges 2-5, below, for which no OFAC authorization was sought or obtained.

In addition, the co-conspirators sought to bring about the export to Iran of other items subject to the Regulations. On or about December 21, 2004, Parto Abgardan informed Aqua-Loop that it had contacted a U.S. company regarding the purchase of a filament winding machine. Parto Abgardan told Aqua-Loop, “Since they can’t sell directly to Iran, they are OK with selling it domestically and then we can transfer it from US to Dubai and then to Iran. With your permission we are going to give Aqua-Loop’s information to them so they can send you their offer” based on the technical information provided to the U.S. company by Parto Abgardan. Thereafter, on or about December 23, 2004, Aqua-Loop’s president, writing on Aqua-Loop stationery, responded, that he would be “more than happy if I can be of assistance on your purchase of filament winding machines.

³ 31 C.F.R. Part 560.

Please let me know the detail, so I can pursue.” In furtherance of the conspiracy, Parto Abgardan and Aqua-Loop continued to work together to accomplish this transaction; on or about January 31, 2005, Parto Abgardan provided Aqua-Loop with Parto Abgardan’s contact at the U.S. filament winding machine company, and asked that Aqua-Loop contact the U.S. company. On or about February 1, 2005, Aqua-Loop’s president again wrote to Parto Abgardan, stating that he had had a “long conversation” with the U.S. company’s representative and that “I should emphasize that I found this lady a bit reluctant on the subject of export the unit to Iran, but she sound OK to work with us, if we do not mention any thing about Iran.”

In so doing, Aqua-Loop committed one violation of Section 764.2(d) of the Regulations.

Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding or Abetting

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop caused, aided or abetted the doing of an act prohibited by the Regulations by facilitating or coordinating the export of approximately 174 rolls of hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as EAR99 items,⁴ through the U.A.E. to Iran without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR maintained by 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 ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop took this action after having been asked by Parto Abgardan, an Iranian company, to arrange for the export of the items to Iran “via Dubai.” Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, “c/o Parto Abgardan,” was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

In so doing, Aqua-Loop committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed items to be exported from the United States with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed approximately 174 rolls of

⁴ 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).

hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as EAR99, which Aqua-Loop knew would be exported to Iran via the U.A.E. without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, 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 ITR without authorization from OFAC. Aqua-Loop knew that no OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law. Aqua-Loop's president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop's president referred to this type of activity as "diverting" items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop had issued a letter to Parto Abgardan stating, "I am trying to find a way to send the components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . . Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai."

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Specifically, after exporting certain hog hair filter media to Parto Abgardan in Iran, as described in Charges 2-3, Aqua-Loop was informed by Parto Abgardan that the items were not exactly the same as a sample Aqua-Loop's president had brought to Parto

Abgardan before the transaction described in Charges 2-3 occurred. Aqua-Loop received from Parto Abgardan a piece of the original sample as well as a piece of the items described in Charges 2-3. Aqua-Loop then provided both pieces to the U.S. distributor, and placed a new order for 185 rolls of hog hair filter media, part number HHB60130, with the U.S. distributor. Aqua-Loop arranged for the U.S. distributor to supply the items, which were destined for Iran, to a freight forwarder for initial shipment to the U.A.E., "c/o Parto Abgardan." Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, "c/o Parto Abgardan," was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

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Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law. Aqua-Loop's president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop's president referred to this type of activity as "diverting" items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop's president had issued a letter to Parto Abgardan, on Aqua-Loop stationery, stating, "I am trying to find a way to send the components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . .

Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai."

In so doing, Aqua-Loop committed one violation of Section 764.2(e) of the Regulations.

WHEREAS, Aqua-Loop has reviewed the Charging Letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

WHEREAS, Aqua-Loop 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, Aqua-Loop enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, Aqua-Loop neither admits nor denies the allegations contained in the Charging Letter;

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

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

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction under the Regulations, the Act and IEEPA over the items described in the Charging Letter and over Aqua-Loop in connection with the matters alleged in the Charging Letter.

2. The following sanction shall be imposed against Aqua-Loop in complete settlement of the alleged violations of the Regulations relating to the transactions detailed in the Charging Letter:

a. Aqua-Loop shall be assessed a civil penalty in the amount of \$100,000, all of which shall be suspended for a period of ten years from the date of the Order, and thereafter shall be waived, provided that during the period of suspension, Aqua-Loop has committed no violation of the Act, or any regulation, order, or license issued thereunder.

b. For a period of ten (10) years from the date of the Order, Aqua-Loop, its 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, Aqua-Loop hereby waives any claims by or on behalf of Aqua-Loop, whether asserted or unasserted, against BIS, the U.S. Department of Commerce, and/or their officials and employees arising out of the facts and circumstances giving rise to the matters that resulted in this Agreement, including, but not limited to, BIS's investigation of the facts and circumstances giving rise to the issuance of the Charging Letter and the violations alleged therein. Aqua-Loop also hereby waives any possible legal objections to this Agreement at any future date and 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, but not limited to, any right to: (a) an administrative hearing regarding the allegations in any proposed charging letter or 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 entry of the Order, BIS will not initiate any further administrative proceedings against Aqua-Loop in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Charging Letter.

5. BIS will make the 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

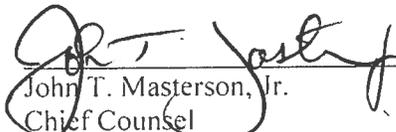
Commerce for Export Enforcement pursuant to Section 766.18(b) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No 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



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

Date: 3/16/2010

AQUA-LOOP COOLING TOWERS, CO.



Bob Rahimzadeh
President
Aqua-Loop Cooling Towers, Co.

Date: March, 15, 2010

CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Aqua-Loop Cooling Towers Co.
P.O. Box 966
Folsom, CA 95763

and

116 Hopper Lane
Folsom, CA 95630

Attn: *Bob Rahimzadeh*
President

Dear Mr. Rahimzadeh:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Aqua-Loop Cooling Towers Co. (“Aqua-Loop”), of Folsom, California, has committed five 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 Aqua-Loop committed the following violations:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy to Export Items from the United States to Iran without the Required Licenses

Beginning at least in or about June 2004, and continuing through at least in or about April 2005, Aqua-Loop conspired or acted in concert with others, known and unknown, to violate the Regulations or to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to export items subject to the Regulations from the United States to Iran, via the United Arab Emirates (“U.A.E.”), without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2009). The charged violations occurred in 2004 and 2005. The Regulations governing the violations at issue are found in the 2004 through 2005 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004-2005)). The 2009 Regulations set forth 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)), as extended most recently by the Notice of July 23, 2008 (73 Fed. Reg. 43,603 (July 25, 2008)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1707 (2000)).

subject to both the Regulations and the Iranian Transactions Regulations (“ITR”),³ without authorization from the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction subject to the ITR.

In furtherance of the conspiracy, the conspirators, including Aqua-Loop, participated in a scheme to have Aqua-Loop source or obtain the items from a U.S. distributor, and then to have Aqua-Loop export the items to an Iranian customer and co-conspirator, Parto Abgardan Cooling Towers Co. (“Parto Abgardan”), in Iran through a U.A.E. entity identified by Parto Abgardan. In furtherance of the scheme, Aqua-Loop obtained from Parto Abgardan information regarding items Parto Abgardan sought to have exported from the United States to Iran. Aqua-Loop then obtained such items and facilitated their export to Parto Abgardan in Iran. Pursuant to the conspiracy, various items were exported to Parto Abgardan in Iran, including the items discussed in Charges 2-5, below, for which no OFAC authorization was sought or obtained.

In addition, the co-conspirators sought to bring about the export to Iran of other items subject to the Regulations. On or about December 21, 2004, Parto Abgardan informed Aqua-Loop that it had contacted a U.S. company regarding the purchase of a filament winding machine. Parto Abgardan told Aqua-Loop, “Since they can’t sell directly to Iran, they are OK with selling it domestically and then we can transfer it from US to Dubai and then to Iran. With your permission we are going to give Aqua-Loop’s information to them so they can send you their offer” based on the technical information provided to the U.S. company by Parto Abgardan. Thereafter, on or about December 23, 2004, Aqua-Loop’s president, writing on Aqua-Loop stationery, responded, that he would be “more than happy if I can be of assistance on your purchase of filament winding machines. Please let me know the detail, so I can pursue.” In furtherance of the conspiracy, Parto Abgardan and Aqua-Loop continued to work together to accomplish this transaction; on or about January 31, 2005, Parto Abgardan provided Aqua-Loop with Parto Abgardan’s contact at the U.S. filament winding machine company, and asked that Aqua-Loop contact the U.S. company. On or about February 1, 2005, Aqua-Loop’s president again wrote to Parto Abgardan, stating that he had had a “long conversation” with the U.S. company’s representative and that “I should emphasize that I found this lady a bit reluctant on the subject of export the unit to Iran, but she sound OK to work with us, if we do not mention any thing about Iran.”

In so doing, Aqua-Loop committed one violation of Section 764.2(d) of the Regulations.

Charge 2 15 C.F.R. § 764.2(b) – Causing, Aiding or Abetting

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop caused, aided or abetted the doing of an act prohibited by the Regulations by facilitating or coordinating the export of approximately 174 rolls of hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as

³ 31 CFR Part 560.

EAR99 items,⁴ through the U.A.E. to Iran without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR maintained by 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 ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop took this action after having been asked by Parto Abgardan, an Iranian company, to arrange for the export of the items to Iran “via Dubai.” Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, “c/o Parto Abgardan,” was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

In so doing, Aqua-Loop committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

Between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed items to be exported from the United States with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, between on or about July 26, 2004, and on or about September 28, 2004, Aqua-Loop ordered or financed approximately 174 rolls of hog hair filter media, part number HH60130 and valued at approximately \$11,687.76, items which are subject to the Regulations and designated as EAR99, which Aqua-Loop knew would be exported to Iran via the U.A.E. without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, 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 ITR without authorization from OFAC. Aqua-Loop knew that no OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law. Aqua-Loop’s president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop’s president referred to this type of activity as “diverting” items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop had issued a letter to Parto Abgardan stating, “I am trying to find a way to send the

⁴ 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).

components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . . Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai.”

In so doing, Aqua-Loop committed one violation of Section 764.2(e) of the Regulations.

Charge 4 15 C.F.R. § 764.2(b) – Causing, Aiding or Abetting

Between on or about February 9, 2005, and on or about April 19, 2005, Aqua-Loop caused, aided or abetted the doing of an act prohibited by the Regulations by facilitating or coordinating the export of approximately 185 rolls of hog hair filter media, part number HHB60130 and valued at approximately \$9,838.30, items which are subject to the Regulations and designated as EAR99 items, through the U.A.E. to Iran without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR maintained by 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 ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Specifically, after exporting certain hog hair filter media to Parto Abgardan in Iran, as described in Charges 2-3, Aqua-Loop was informed by Parto Abgardan that the items were not exactly the same as a sample Aqua-Loop's president had brought to Parto Abgardan before the transaction described in Charges 2-3 occurred. Aqua-Loop received from Parto Abgardan a piece of the original sample as well as a piece of the items described in Charges 2-3. Aqua-Loop then provided both pieces to the U.S. distributor, and placed a new order for 185 rolls of hog hair filter media, part number HHB60130, with the U.S. distributor. Aqua-Loop arranged for the U.S. distributor to supply the items, which were destined for Iran, to a freight forwarder for initial shipment to the U.A.E., “c/o Parto Abgardan.” Parto Abgardan did not have a location in the U.A.E., and the address to which Aqua-Loop arranged for the items to be exported, “c/o Parto Abgardan,” was in fact added to the BIS Unverified List of entities involved in transactions in which BIS is unable to verify the existence or authenticity of the end-user or other party to the transaction, published in the *Federal Register* on October 19, 2006. 71 Fed. Reg. 61,706 (Oct. 19, 2006).

In so doing, Aqua-Loop committed one violation of Section 764.2(b) of the Regulations.

Charge 5 15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation

Between on or about February 9, 2005, and on or about April 19, 2005, Aqua-Loop ordered items to be exported from the United States with knowledge that a violation of the Regulations was occurring, was about to occur or was intended to occur in connection with the items. Specifically, between on or about February 9, 2005, and on or about April 19, 2005, Aqua-Loop ordered approximately 185 rolls of hog hair filter media, part number HHB60130 and valued at

approximately \$9,838.30, items which are subject to the Regulations and designated as EAR99, which Aqua-Loop knew would be exported to Iran via the U.A.E. without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, 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 ITR without authorization from OFAC. Aqua-Loop knew that no OFAC authorization was sought or obtained for the transaction described herein.

Aqua-Loop had knowledge that a violation was occurring, was about to occur or was intended to occur in connection with the items because Aqua-Loop was aware of the U.S. embargo of Iran and had knowledge that exporting items through the U.A.E. to Iran was a violation of U.S. law. Aqua-Loop's president stated to a BIS Office of Export Enforcement special agent in an interview on or about October 14, 2005, that approximately three years earlier he had become aware of sanctions barring the shipment of items to Iran and that he understood that knowingly shipping items to Iran through a third country was illegal. Aqua-Loop's president referred to this type of activity as "diverting" items to Iran. Moreover, on or about September 23, 1997, Aqua-Loop's president had issued a letter to Parto Abgardan, on Aqua-Loop stationery, stating, "I am trying to find a way to send the components that I promised to you. Unfortunately after many unsuccessful attempts, I came to a conclusion that the only way to open this channel is what you were thinking, and if I understood correctly, you are going to have some kind of agent or office in one of the Gulf countries. I tell you this that I would have no problem getting a container to my place and loading to a steam ship toward Dubai. . . . Many shipping companies express that you shouldn't have any major problem getting the goods to Tehran from Dubai."

In so doing, Aqua-Loop committed one violation of Section 764.2(e) of the Regulations.

* * * * *

Accordingly, Aqua-Loop is hereby notified that an administrative proceeding is instituted against it 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;⁵
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Aqua-Loop 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 Aqua-Loop defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Aqua-Loop. The

⁵ International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty for the charges in this letter.

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

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

Aqua-Loop is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Aqua-Loop 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 U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Aqua-Loop'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 Aqua-Loop's answer must be served on BIS at the following address:

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

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

Sincerely,

Thomas Madigan
Director
Office of Export Enforcement