

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

In the Matter of:

Massoud Habibion  
171 Encantado Canyon  
Rancho Santa Margarita, CA 92688

Respondent

ORDER RELATING TO MASSOUD HABIBION

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Massoud Habibion, a/k/a Matt Habibion, a/k/a Matt Habi, of Rancho Santa Margarita, CA (“Habibion”), of its intention to initiate an administrative proceeding against Habibion pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),<sup>2</sup> through the issuance of a Proposed Charging Letter to Habibion that alleges that Habibion committed four violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred between 2009-2010. The Regulations governing the violations at issue are found in the 2009-10 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charge 1                      15 C.F.R. § 764.2(d) – Conspiracy**

Beginning on or about November 9, 2009, and continuing through in or around December, 2010, Habibion conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”),<sup>3</sup> classified under Export Control Classification Number (“ECCN”) 5A992, controlled for anti-terrorism reasons and valued at approximately \$1.9 million, from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered 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 ITR without authorization from OFAC.

Habibion was one of three co-owners of Online Micro, LLC (“Online Micro”), at all times pertinent hereto, and furthered the conspiracy by, *inter alia*, participating in the negotiation and sale of the computer equipment and arranging for its export from the United States to the UAE for transshipment to Iran without the required U.S. Government authorization. The exports were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Online Micro, on behalf of Iranian customers. In addition, Habibion knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Habibion from Tehran.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010, during which the Special Agents informed Habibion that unlicensed exports of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Habibion also knew that U.S. Government authorization had not and would not be sought or obtained to export the computer equipment to Iran. Habibion participated in and furthered the conspiracy described herein despite this knowledge.

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

**Charges 2-4                      15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

As further detailed in the Schedule of Violations attached hereto and incorporated herein by reference, on three occasions, between on or about November 11, 2009, and on or about May 15, 2010, Habibion sold and forwarded items subject to the Regulations from

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<sup>3</sup> 31 C.F.R. Part 560 (2009-2010).

the United States to Iran, via the UAE, with knowledge that a violation of the Regulations was about or intended to occur in connection with the items. Specifically, on these three occasions, Habibion sold and forwarded U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transactions Regulations (“ITR”),<sup>4</sup> classified under ECCN 5A992, and controlled for anti-terrorism reasons from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, which are administered 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.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010. Habibion also knew that the U.S.-origin computer equipment sold and forwarded from the United States to the UAE was being transshipped through the UAE to Iran, because, *inter alia*, Habibion, knew that one of its customer resided in Tehran, Iran, and was engaging in business from Tehran, Iran. Nonetheless, Habibion sold and forwarded the items for export to Iran, via the UAE, without seeking or obtaining U.S. Government authorization for the export transactions described herein.

In so doing, Habibion committed three violations of Section 764.2(e) of the Regulations.

WHEREAS, BIS and Habibion 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, that for a period of ten (10) years from the date of this Order, Habibion, with a last known address of 171 Encandado Canyon, Rancho Santa Margarita, CA 92688, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity,

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<sup>4</sup> 31 C.F.R. Part 560 (2009-2010).

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.

SECOND, 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.

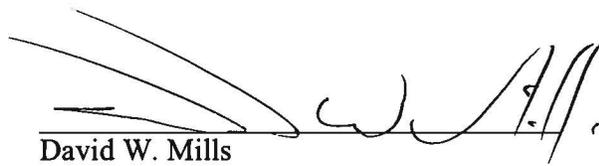
THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, that, as authorized by Section 766.18(c) of the Regulations, the ten-year denial period set forth above shall be suspended, and shall thereafter be waived at the conclusion of the ten-year denial period, provided that Habibion has complied with the plea agreement and any sentence imposed upon or following the entry of his plea and conviction and has committed no other violation of the Act or any regulation, order,

license or authorization issued thereunder during the ten-year denial period. If Habibion does not comply with the plea agreement and sentence, the suspension may be modified or revoked by BIS and a denial order including a ten-year denial period activated against Habibion.

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

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



David W. Mills  
Assistant Secretary of Commerce  
for Export Enforcement

Issued this 22<sup>nd</sup> day of February, 2012.

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

In the Matter of:

Massoud Habibion  
171 Encantado Canyon  
Rancho Santa Margarita, CA 92688

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Massoud Habibion, a/k/a Matt Habibion, a/k/a Matt Habi, of Rancho Santa Margarita, CA (“Habibion”), 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 (the “Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup>

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

WHEREAS, BIS has issued a Proposed Charging Letter to Habibion that alleges that Habibion committed four violations of the Regulations, specifically:

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The charged violations occurred between 2009-2010. The Regulations governing the violations at issue are found in the 2009-10 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2011 Regulations set forth the procedures that apply to this matter.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

**Charge 1                    15 C.F.R. § 764.2(d) – Conspiracy**

Beginning on or about November 9, 2009, and continuing through in or around December, 2010, Habibion conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”),<sup>3</sup> classified under Export Control Classification Number (“ECCN”) 5A992, controlled for anti-terrorism reasons and valued at approximately \$1.9 million, from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered 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 ITR without authorization from OFAC.

Habibion was one of three co-owners of Online Micro, LLC (“Online Micro”), at all times pertinent hereto, and furthered the conspiracy by, *inter alia*, participating in the negotiation and sale of the computer equipment and arranging for its export from the United States to the UAE for transshipment to Iran without the required U.S. Government authorization. The exports were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Online Micro, on behalf of Iranian customers. In addition, Habibion knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Habibion from Tehran.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010, during which the Special Agents informed Habibion that unlicensed exports of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Habibion also knew that U.S. Government authorization had not and would not be sought or obtained to export the computer equipment to Iran. Habibion participated in and furthered the conspiracy described herein despite this knowledge.

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

**Charges 2-4                    15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

As further detailed in the Schedule of Violations attached hereto and incorporated herein by reference, on three occasions, between on or about November 11, 2009, and on or about May 15, 2010, Habibion sold and forwarded items subject to the Regulations from the United States to Iran, via the UAE, with knowledge that a violation of the Regulations was about or intended to occur in connection with the items. Specifically, on these three occasions, Habibion sold and forwarded U.S.-origin computer equipment, items subject to the Regulations and the Iranian

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<sup>3</sup> 31 C.F.R. Part 560 (2009-2010).

Transactions Regulations (“ITR”),<sup>4</sup> classified under ECCN 5A992, and controlled for anti-terrorism reasons from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, which are administered 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.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010. Habibion also knew that the U.S.-origin computer equipment sold and forwarded from the United States to the UAE was being transshipped through the UAE to Iran, because, *inter alia*, Habibion, knew that one of its customer resided in Tehran, Iran, and was engaging in business from Tehran, Iran. Nonetheless, Habibion sold and forwarded the items for export to Iran, via the UAE, without seeking or obtaining U.S. Government authorization for the export transactions described herein.

In so doing, Habibion committed three violations of Section 764.2(e) of the Regulations.

WHEREAS, Habibion 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, Habibion 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, Habibion enters into this Agreement voluntarily and with full knowledge of his rights, after having consulted with counsel;

WHEREAS, the Parties enter into this Agreement having taken into consideration a plea agreement entered by Habibion in the U.S. District Court for the District of Columbia;

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

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<sup>4</sup> 31 C.F.R. Part 560 (2009-2010).

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

WHEREAS, Habibion agrees to be bound by the Order, if issued;

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

1. BIS has jurisdiction over Habibion, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. Habibion admits the allegations contained in the Proposed Charging Letter;
3. The following sanctions shall be imposed against Habibion in complete settlement of the alleged violations of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

- a. For a period of ten (10) years from the date of the Order, Habibion, with a last known address of 171 Encandado Canyon, Rancho Santa Margarita, CA 92688, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- i. Applying for, obtaining, or using any license, License Exception, or export control document;
- ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding,

transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or 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.

b. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the ten-year denial period set forth in Paragraph 3.a shall be suspended, and shall thereafter be waived at the conclusion of the ten-year denial period, provided that Habibion has complied with the plea agreement and any sentence imposed upon or following the entry of his plea and conviction, and has committed no other violation of the Act or any regulation, order, license or authorization issued thereunder during the ten-year denial period. If Habibion does not comply with the plea agreement and sentence, or commits a violation of the Act or any regulation, order, license or authorization issued thereunder, during the ten-year probationary period under the Order, the suspension may be modified or revoked by BIS and a denial order including a ten-year denial period activated against Habibion.

4. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Habibion 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. Habibion also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until the later of the date Habibion has complied with the plea agreement and any sentence imposed upon or following the entry of its plea and conviction.

5. BIS agrees that upon compliance with the plea agreement and any sentence imposed upon or following the entry of its plea and conviction, BIS will not initiate any further administrative proceeding against Habibion in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(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 issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing the Order, which will

have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

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

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



Douglas R. Hassebrock  
Director of Export Enforcement

Date: 2/16/2012

MASSOUD HABIBION



Massoud Habibion,  
a/k/a Matt Habibion, a/k/a Matt Habi  
Managing Director

Date: 2/16/2012

Reviewed and approved by:



J. Patrick Rowan, Esq.  
McGuire Woods, LLP  
Counsel for Massoud Habibion

Date: 2/16/2012

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Massoud Habibion  
171 Encantado Canyon  
Rancho Santa Margarita, CA 92688

Dear Mr. Habibion:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that you, Massoud Habibion, a/k/a Matt Habibion, a/k/a Matt Habi, of Rancho Santa Margarita, CA (“Habibion”), have committed four violations of the Export Administration Regulations (the “Regulations”),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).<sup>2</sup> Specifically, BIS alleges that Habibion committed the following violations:

**Charge 1                      15 C.F.R. § 764.2(d) – Conspiracy**

Beginning on or about November 9, 2009, and continuing through in or around December, 2010, Habibion conspired or acted in concert with others, known and unknown, to bring about or to take actions that constituted a violation of the Regulations. The purpose of the conspiracy was to bring about the export of U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transaction Regulations (“ITR”),<sup>3</sup> classified under Export Control Classification Number (“ECCN”) 5A992, controlled for anti-terrorism reasons and valued at approximately \$1.9 million, from the United States to Iran, through the United Arab Emirates (“UAE”), without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, administered 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 ITR without authorization from OFAC.

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2011). The violations alleged occurred in 2009-2010. The Regulations governing the violation at issue are found in the 2009-2010 versions of the Code of Federal Regulations. 15 C.F.R. Parts 730-774 (2009-2010). The 2011 Regulations govern the procedural aspects of this case.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 12, 2011 (76 Fed. Reg. 50,661 (Aug. 16, 2011)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*).

<sup>3</sup> 31 C.F.R. Part 560 (2009-2010).

Habibion was one of three co-owners of Online Micro, LLC (“Online Micro”), at all times pertinent hereto, and furthered the conspiracy by, *inter alia*, participating in the negotiation and sale of the computer equipment and arranging for its export from the United States to the UAE for transshipment to Iran without the required U.S. Government authorization. The exports were made to a co-conspirator in the UAE, whose primary business consisted of the purchase of U.S.-origin computer equipment from suppliers in the United States, such as Online Micro, on behalf of Iranian customers. In addition, Habibion knew that one of his co-conspirators resided in Tehran, Iran, and was engaging in business with Habibion from Tehran.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010, during which the Special Agents informed Habibion that unlicensed exports of goods to the UAE with knowledge that the ultimate destination of the items was Iran constituted a violation of the Regulations. Habibion also knew that U.S. Government authorization had not and would not be sought or obtained to export the computer equipment to Iran. Habibion participated in and furthered the conspiracy described herein despite this knowledge.

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

**Charges 2-4                    15 C.F.R. § 764.2(e) – Acting with Knowledge of a Violation**

As further detailed in the Schedule of Violations attached hereto and incorporated herein by reference, on three occasions, between on or about November 11, 2009, and on or about May 15, 2010, Habibion sold and forwarded items subject to the Regulations from the United States to Iran, via the UAE, with knowledge that a violation of the Regulations was about or intended to occur in connection with the items. Specifically, on these three occasions, Habibion sold and forwarded U.S.-origin computer equipment, items subject to the Regulations and the Iranian Transactions Regulations (“ITR”),<sup>4</sup> classified under ECCN 5A992, and controlled for anti-terrorism reasons from the United States to Iran, through the UAE, without the required U.S. Government authorization. Pursuant to Section 560.204 of the ITR, which are administered 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.

Habibion knew that exports to Iran, including specifically exports transshipped through the UAE, required a license because, *inter alia*, BIS Special Agents conducted an outreach visit to Habibion in January 2010. Habibion also knew that the U.S.-origin

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<sup>4</sup> 31 C.F.R. Part 560 (2009-2010).

computer equipment sold and forwarded from the United States to the UAE was being transshipped through the UAE to Iran, because, *inter alia*, Habibion, knew that one of its customer resided in Tehran, Iran, and was engaging in business from Tehran, Iran. Nonetheless, Habibion sold and forwarded the items for export to Iran, via the UAE, without seeking or obtaining U.S. Government authorization for the export transactions described herein.

In so doing, Habibion committed three violations of Section 764.2(e) of the Regulations.

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Accordingly, Habibion 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 and any other liability sanction or penalty available under law, including, but not limited to any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;<sup>5</sup>
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

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

Habibion 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. Habibion 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 Habibion have a proposal to settle this case, Habibion should transmit it to the attorney representing BIS named below.

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<sup>5</sup> *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Massoud Habibion (a/k/a Matt Habibion, a/k/a Matt Habi)  
Proposed Charging Letter  
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Habibion is further notified that under the Small Business Regulatory Enforcement Flexibility Act, Habibion 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, Habibion'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 Habibion's answer must be served on BIS at the following address:

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

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

Sincerely,

Douglas R. Hassebrock  
Director  
Office of Export Enforcement

**Schedule of Violations**

<b>Charge</b>	<b>Export Date</b>	<b>Destination</b>	<b>Item</b>	<b>ECCN</b>
2	11/11/09	Iran	computers and accessories	5A992
3	04/09/10	Iran	computers and accessories	5A992
4	05/15/10	Iran	computers and accessories	5A992