

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

In the Matter of:

Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.
123 Air Cargo Road
North Syracuse, NY 13212

Respondent

ORDER RELATING TO
MOHAWK GLOBAL LOGISTICS CORP., F/K/A MOHAWK CUSTOMS AND
SHIPPING CORP.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Mohawk Global Logistics Corp., formerly known as Mohawk Customs and Shipping Corp., of Syracuse, New York (“Mohawk”), of its intention to initiate an administrative proceeding against Mohawk pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to Mohawk that alleges that Mohawk committed three violations of the Regulations. Specifically, the charges are:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The charged violations occurred in 2012, 2014, and 2015. The Regulations governing the violation at issue are found in the 2012, 2014, and 2015 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2018 Regulations set forth the procedures that apply to this matter.

² 50 U.S.C. §§ 4601-4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 Fed. Reg. 52,587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, et seq. (2012)).

Charge 1 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation

On or about August 16, 2012, Mohawk caused, aided, and/or abetted a violation of the Regulations, namely, the export of an LNP-20 Liquid Nitrogen Plant, an item subject to the Regulations, designated EAR99,³ and valued at \$33,587. Mohawk forwarded the item for export from the United States to the All-Russian Scientific Research Institute of Experimental Physics (VNIIEF), a.k.a Russian Federal Nuclear Center-VNIIEF (RFNC-VNIIEF) in Sarov, Russia. VNIIEF and its RFNC-VNIIEF alias (collectively, “VNIIEF”) were at all relevant times listed on the Entity List, Supplement No. 4 to Part 744 of the Regulations.⁴ A BIS license was at all relevant times required to export any item subject to the Regulations to VNIIEF. *See* 15 C.F.R. § 744.11 and Supp. No. 4 to 15 C.F.R. Part 744 (2012).⁵

Mohawk was at all relevant times aware of the Entity List and maintained a screening program designed to detect and prevent shipments to restricted parties. Mohawk compared the name of the ultimate consignee to entries on the Entity List using their screening software, which correctly identified VNIIEF as being listed on the Entity List and “flagged” the shipment. However, as Mohawk has acknowledged to BIS during this matter, a Mohawk export supervisor erroneously overrode or ignored this red flag and Mohawk proceeded without further inquiry or due diligence to forward the items for export on or about August 16, 2012. Mohawk prepared and filed Electronic Export Information (“EEI”) with the U.S. Government on or about that date indicating that the shipment was “NLR,” that is, “No License Required.”

³ 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) (2012-2018).

⁴ The acronyms “VNIIEF” and “RFNC-VNIIEF” are and were at all relevant times included as part of the Entity List listing for VNIIEF, which has been on the Entity List since June 1997. It was originally added to the Entity List under the name All-Union Scientific Research Institute of Experimental Physics. *See* 62 Fed. Reg. 35,334 (June 30, 1997). The listing was updated to revise the name to All-Russian Scientific Research Institute of Experimental Physics (VNIIEF) in May 2011, at which the time the RFNC-VNIIEF alias and other VNIIEF aliases were added. *See* 76 Fed. Reg. 29,998 (May 24, 2011). The listing was also made applicable at that time, and remains applicable, to any other “nuclear-related entities, institutes, or centers located in Sarov (Kremlev).” *See id.*; Supp. No. 4 to 15 C.F.R. Part 744 (2011-2012, 2018).

⁵ Consistent with Section 744.11, each Entity List entry includes a “license requirement” column specifying the items for which a BIS license is required – typically, as in this case, all items subject to the Regulations – before any of the specified items may be exported, reexported, or transferred (in-country) to the listed entity. Each entry also states a license review policy under which license applications submitted under Section 744.11 will be evaluated. The license review policy for VNIIEF is and was at all relevant times “case-by-case basis.” Regardless of the applicable license review policy, whether case-by-case basis or, for example, “presumption of denial” or “presumption of approval for EAR99 items,” a BIS license is required to export, reexport, or transfer (in-country) to the listed entity any item referenced in the “license requirement” column.

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

Charges 2-3 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation

On two separate occasions, on or about February 12, 2014, and on or about August 12, 2015, Mohawk caused, aided, and/or abetted a violation of the Regulations, namely, the export of Real-Time Back Reflection Laue Camera Detectors and Accessories, items subject to the Regulations, designated EAR99, and valued at \$177,156, to the University of Electronic Science and Technology of China (“UESTC”) in Chengdu, People’s Republic of China, without the required BIS license. At all relevant times, UESTC was listed on the Entity List, and a BIS license was required to export any item subject to the Regulations to that entity. *See* 15 C.F.R. § 744.11 and Supp. No. 4 to 15 C.F.R. Part 744 (2014-2015).⁶

Mohawk provided freight forwarding services for the initial unlicensed export of these items to UESTC on or about February 12, 2014. Documents provided to Mohawk by the exporter clearly identified UESTC’s full name as it is listed on the Entity List, along with a near-exact match for the entity’s address. Mohawk used screening software in connection with this transaction, but failed to flag the transaction, assertedly because it failed to use UESTC’s full, unabbreviated name. Without further inquiry or due diligence, Mohawk proceeded with the transaction and prepared and filed EEI that falsely indicated the export was “NLR.”

On the second occasion, on August 12, 2015, Mohawk caused, aided, and/or abetted the unlicensed export to UESTC of the same exact items, which had been returned to the U.S. manufacturer for warranty repair. Documents provided to Mohawk by the exporter again identified UESTC’s full name and a near-exact match for the entity’s address. For this second export, Mohawk failed to screen the transaction and proceeded to forward the item for export to UESTC. No EEI was filed in connection with this second export of the items to UESTC.

In so doing, Mohawk committed two violations of Section 764.2(b) of the Regulations.

WHEREAS, BIS and Mohawk 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

⁶ UESTC, which remains on the Entity List, was added to the Entity List as a separate entity in 2012, 77 Fed. Reg. 58,006 (Sept. 19, 2012).

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

IT IS THEREFORE ORDERED:

FIRST, Mohawk shall be assessed a civil penalty in the amount of \$155,000.

Mohawk shall pay the U.S. Department of Commerce \$135,000 in three installments as follows: \$45,000 no later than September 15, 2018; \$45,000 no later than February 1, 2019; and \$45,000 no later than June 15, 2019. Payment of the remaining \$20,000 shall be suspended through December 15, 2019, and thereafter shall be waived, provided that during this payment probationary period: Mohawk has timely paid \$135,000 to the Department of Commerce as set forth above; has otherwise complied with the provisions of the Agreement and this Order; and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If any of the three installment payments is not fully or timely made, any remaining scheduled installment payments and any suspended penalty may become due and owing immediately.

SECOND, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Mohawk will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

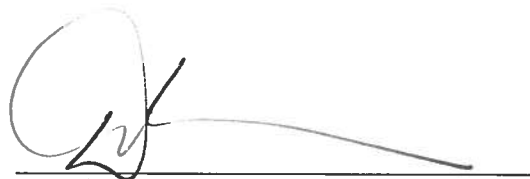
THIRD, the full and timely payment of the civil penalty in accordance with the payment schedule set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Mohawk. Accordingly, if Mohawk should fail to fully or

timely make a payment, the undersigned may issue an order denying all of Mohawk's export privileges under the Regulations for a period of one year from the date of the failure to fully and timely make such payment.

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

SIXTH, 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.



Douglas Hassebrock
Director, Office of Export Enforcement,
performing the non-exclusive functions
and duties of the Assistant Secretary of
Commerce for Export Enforcement

Issued this 10th day of AUG, 2018.

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

In the Matter of:

Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.
123 Air Cargo Road
North Syracuse, NY 13212

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Mohawk Global Logistics Corp., formerly known as Mohawk Customs and Shipping Corp., of North Syracuse, New York (“Mohawk”), 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”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

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

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

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The charged violations occurred in 2012, 2014, and 2015. The Regulations governing the violation at issue are found in the 2012, 2014, and 2015 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2018 Regulations set forth the procedures that apply to this matter.

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Mohawk was at all relevant times aware of the Entity List and maintained a screening program designed to detect and prevent shipments to restricted parties. Mohawk compared the name of the ultimate consignee to entries on the Entity List using their screening software, which correctly identified VNIIEF as being listed on the Entity List and “flagged” the shipment. However, as Mohawk has acknowledged to BIS during this matter, a Mohawk export supervisor erroneously overrode or ignored this red flag and Mohawk proceeded without further inquiry or due diligence to forward the items for export on or about August 16, 2012. Mohawk prepared and filed Electronic Export Information (“EEI”) with the U.S. Government on or about that date indicating that the shipment was “NLR,” that is, “No License Required.”

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In so doing, Mohawk committed two violations of Section 764.2(b) of the Regulations.

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

⁶ UESTC, which remains on the Entity List, was added to the Entity List as a separate entity in 2012, 77 Fed. Reg. 58,006 (Sept. 19, 2012).

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

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

WHEREAS, Mohawk neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, Mohawk 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 Mohawk, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.
2. The following sanctions shall be imposed against Mohawk:
 - a. Mohawk shall be assessed a civil penalty in the amount of \$155,000. Mohawk shall pay the U.S. Department of Commerce \$135,000 in three installments as follows: \$45,000 no later than September 15, 2018; \$45,000 no later than February 1, 2019; and \$45,000 no later than June 15, 2019. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$20,000 shall be suspended through December 15, 2019, and thereafter shall be waived, provided that during this payment probationary period: Mohawk has timely paid \$135,000 to the Department of Commerce as set forth above; has

otherwise complied with the provisions of the Agreement and the Order; and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If any of the three installment payments is not fully or timely made, any remaining scheduled installment payments and any suspended penalty may become due and owing immediately.

c. The full and timely payment of the civil penalty as agreed to in Paragraph 2.a is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Mohawk. Failure to fully or timely make a payment may result in the denial of all of Mohawk's export privileges under the Regulations for a period of one year from the date of the failure to fully and timely make such payment.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, Mohawk hereby waives all rights to further procedural steps in this matter (except the procedural steps set forth in Sections 766.17(c) and 766.18(c) of the Regulations with respect to the possible activation of suspended sanctions due to a violation or violations of this Agreement or the Order, if issued), including, without limitation, any right to: (a) receive 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. Mohawk 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, and 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 Mohawk has paid in full the civil penalty agreed to in Paragraph 2.a of this Agreement.

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

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, above, BIS will not initiate any further administrative proceeding against Mohawk in connection with any violation of the Act or the Regulations arising out of the transaction 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 or the Order 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. If the Order issues, BIS will make the Proposed Charging Letter, this Agreement, and the Order available to the public.

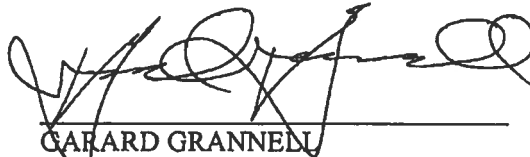
10. Each signatory affirms that he/she has authority to enter into this Settlement Agreement and to bind his/her respective party to the terms and conditions set forth herein.

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

Douglas R. Hassebrock
Director of Export Enforcement

Date: _____, 2018

MOHAWK GLOBAL LOGISTICS CORP.



GARARD GRANNELL
President and CEO
Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.

Date: 8/6/18, 2018

Reviewed and approved by:

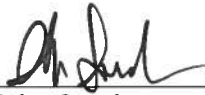


Jon P. Yormick, Esq.
Law Offices of Jon P. Yormick Co. LPA
Counsel for Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.

Date: 6 AUGUST, 2018

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

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



John Sonderman
Acting Director
Office of Export Enforcement

Date: 8/7, 2018

MOHAWK GLOBAL LOGISTICS CORP.

GARARD GRANNELL
President and CEO
Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.

Date: _____, 2018

Reviewed and approved by:

Jon P. Yormick, Esq.
Law Offices of Jon P. Yormick Co. LPA
Counsel for Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.

Date: _____, 2018

PROPOSED CHARGING LETTER

CERTIFIED MAIL- RETURN RECEIPT REQUESTED

Mohawk Global Logistics Corp.
f/k/a Mohawk Customs and Shipping Corp.
123 Air Cargo Road
North Syracuse, NY 13212

Attention: Garard Grannell, President & CEO

Dear Mr. Grannell,

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Mohawk Global Logistics Corp., formerly known as Mohawk Customs and Shipping Corp., of North Syracuse, New York (“Mohawk”), has violated the Export Administration Regulations (“the Regulations” or “the EAR”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (“the Act”).² Specifically, BIS charges that Mohawk committed the following violations:

Charge 1 15 C.F.R. § 764.2(b) – Causing, Aiding, or Abetting a Violation

On or about August 16, 2012, Mohawk caused, aided, and/or abetted a violation of the Regulations, namely, the export of an LNP-20 Liquid Nitrogen Plant, an item subject to the Regulations, designated EAR99,³ and valued at \$33,587. Mohawk forwarded the item for export from the United States to the All-Russian Scientific Research Institute of Experimental Physics (VNIIEF), a.k.a Russian Federal Nuclear Center-VNIIEF (RFNC-VNIIEF) in Sarov, Russia. VNIIEF and its RFNC-VNIIEF alias (collectively, “VNIIEF”) were at all relevant times listed on the Entity List, Supplement No. 4 to Part

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The violations alleged occurred in 2012, 2014, and 2015. The Regulations governing the violation at issue are found in the 2012, 2014, and 2015 versions of the Code of Federal Regulations, 15 C.F.R. Parts 730-774 (2012, 2014 - 2015). The 2018 Regulations govern the procedural aspects of this case.

² 50 U.S.C. §§ 4601-4623 (available at <http://uscode.house.gov/>). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 4, 2016 (81 Fed. Reg. 52587 (Aug. 8, 2016)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2012)).

³ 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) (2012-2018).

listed on the Entity List, and a BIS license was required to export any item subject to the Regulations to that entity. *See* 15 C.F.R. § 744.11 and Supp. No. 4 to 15 C.F.R. Part 744 (2014-2015).⁶

Mohawk provided freight forwarding services for the initial unlicensed export of these items to UESTC on or about February 12, 2014. Documents provided to Mohawk by the exporter clearly identified UESTC's full name as it is listed on the Entity List, along with a near-exact match for the entity's address. Mohawk used screening software in connection with this transaction, but failed to flag the transaction, assertedly because it failed to use UESTC's full, unabbreviated name. Without further inquiry or due diligence, Mohawk proceeded with the transaction and prepared and filed EEI that falsely indicated the export was "NLR."

On the second occasion, on August 12, 2015, Mohawk caused, aided, and/or abetted the unlicensed export to UESTC of the same exact items, which had been returned to the U.S. manufacturer for warranty repair. Documents provided to Mohawk by the exporter again identified UESTC's full name and a near-exact match for the entity's address. For this second export, Mohawk failed to screen the transaction and proceeded to forward the item for export to UESTC. No EEI was filed in connection with this second export of the items to UESTC.

In so doing, Mohawk committed two violations of Section 764.2(b) of the Regulations.

* * * * *

Accordingly, Mohawk 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, but not limited to, any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$295,141 per violation,⁷ or twice the value of the transaction that is the basis of the violation;⁸
- Denial of export privileges;

⁶ UESTC, which remains on the Entity List, was added to the Entity List as a separate entity in 2012, 77 Fed. Reg. 58,006 (Sept. 19, 2012).

⁷ *See* 15 C.F.R. §§ 6.3(b)(4), 6.4. This amount is subject to annual increases pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Sec. 701 of Public Law 114-74, enacted on November 2, 2015. *See* 83 Fed. Reg. 706, 707 (Jan. 8, 2018) (Adjusting for inflation this amount under IEEPA from \$289,238 to \$295,141, effective January 15, 2018).

⁸ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Mohawk Global Logistics Corp.
Proposed Charging Letter
Page 5 of 5

Zachary Klein is the attorney representing BIS in this case; any communications that Mohawk may wish to have concerning this matter should occur through him. Mr. Klein may be contacted by telephone at (202) 482-5301.

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement