

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

In the Matter of:)
)
Mr. Ali Asghar Manzarpour) 07-BIS-21
Preston Technical Services, Ltd.-UK)
17 Preston Village Mews Middle Road)
Brighton East Sussex BN1 6XU)
England)
)
and)
)
c/o Maria House)
35 Millers Rd.)
Brighton BN1 5NP)
England)
)
Respondent.)

FINAL DECISION AND ORDER

This matter is before me upon a Recommended Decision and Order (“RDO”) of the Administrative Law Judge (“ALJ”) issued on February 4, 2008.

In a charging letter filed on July 27, 2007, the Bureau of Industry and Security (“BIS”) alleged that Respondent, Ali Asghar Manzarpour (“Manzarpour”), Director of Preston Technical Services, Ltd., committed three violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774) (2007)) (“Regulations”)¹, issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (the “Act”).²

¹ The violations charged occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2007 Regulations establish the procedures that apply to this matter.

² 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 15, 2007 (72 FR 46,137 (August 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)) (“IEEPA”).

Specifically, the charging letter alleged that on or about April 28, 2004, Manzarpour caused, aided, or abetted in the doing of an act prohibited by the Regulations by facilitating and coordinating the export of a single engine aircraft that is subject to the Regulations, classified under Export Control Classification Number (ECCN) 9A991.b and controlled for anti-terrorism (AT) reasons, to Iran without the required export authorization. Specifically, Manzarpour ordered a freight-forwarding company to ship the aircraft from the United States to the United Kingdom (UK) knowing that Iran was the ultimate destination. Upon its arrival in the UK, Manzarpour instructed the freight forwarder to transship the item to Iran, but the item was detained before leaving the UK. Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the export of an item to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Under Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export. BIS charged that in so doing, Manzarpour committed one violation of Section 764.2(b) of the Regulations.

The charging letter also alleged that on or about April 28, 2004, Manzarpour violated the Regulations by ordering, selling, and/or buying an item for export from the United States with knowledge that a violation of the Regulations would occur in connection with the item.

Specifically, Manzarpour ordered, bought, and/or sold an aircraft subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the item would be exported to Iran, via the UK, without the required U.S. Government authorization. Manzarpour had knowledge that the U.S. item could not be sold to sanctioned countries, including Iran, a fact

he acknowledged during an interview with UK Customs officials. BIS charged that in so doing, Manzarpour committed one violation of Section 764.2(e) of the Regulations.

Finally, the charging letter alleged that on or about April 28, 2004, Manzarpour took actions with intent to evade the Regulations. Specifically, Manzarpour, acting through his companies, Preston Technical Services Ltd.-UK and Baronmode, Ltd.-UK, acquired an aircraft subject to the Regulations, and classified as ECCN 9A991.b, from U.S. suppliers with intent to transship the aircraft to Iran. Manzarpour and his companies failed to inform the U.S. suppliers of the ultimate destination of the item and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. BIS charged that in so doing, Manzarpour committed one violation of Section 764.2(h) of the Regulations.

In accordance with Section 766.3(b)(1) of the Regulations, on July 27, 2007, BIS mailed the notice of issuance of the charging letter by registered mail to Manzarpour at his last known address. Failing to receive a return receipt, BIS also mailed a copy by registered mail to Manzarpour at an alternate address on September 4, 2007. In addition, BIS attempted to serve the charges on Manzarpour by various other means, including facsimile, Federal Express and electronic mail.

BIS presented evidence that on September 20, 2007, delivery of the charging letter, sent on September 4, 2007, was attempted via registered mail and "refused." Thus, under Section 766.3(c) of the Regulations, the ALJ deemed September 20, 2007 the effective date of service based on the "refusal." To date, however, Manzarpour has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with Section 766.7 of the Regulations, BIS filed a Motion for Default Order on December 4, 2007, which it supplemented on December 17, 2007. Under Section 766.7(a), “[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent’s right to appear,” and “on BIS’s motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter.” The Motion for Default Order recommended that Manzarpour be denied export privileges under the Regulations for a period of twenty years.

Based on the record before him, the ALJ issued an RDO on February 4, 2008, in which he found Manzarpour in default and held that the Respondent had committed one violation of Section 764.2(b), one violation of Section 764.2(e) and one violation of Section 764.2(h). The ALJ also recommended the penalty of denial of Manzarpour’s export privileges under the Regulations for twenty years.

The RDO, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ’s findings of fact and conclusions of law concerning Manzarpour’s default and concerning his violations of the Regulations as alleged in the charging letter. I also find that the penalty recommended by the ALJ is appropriate, given the facts of this case, the nature of the violations, and the importance of preventing future unauthorized exports.

I do note, however, one clarification regarding dictum contained in the ALJ’s Recommended Decision and Order. On pages 4 and 9 of the RDO, the ALJ concluded that notice of the charging letter was provided to Manzarpour via registered mail. On page 9 of the RDO, in addressing attempts to serve the charging letter by means of electronic mail and Federal Express, the ALJ states: “The problem with both methods of service is that they are not

authorized under 15 C.F.R. § 766.3(b) as an acceptable means of obtaining service.” I agree with the ALJ that, in this particular case, BIS did not present sufficient evidence to establish service by means other than or in addition to registered mail. The Regulations do not, however, preclude use of a delivery service, such as Federal Express, to effectively serve charges. Use of such an alternative means of service could satisfy Section 766.3(b)(2) or (b)(3) of the Regulations under certain circumstances. The Regulations provide that effective service of a charging letter can be satisfied if delivered to or left with an appropriate officer or agent pursuant to Section 766.3(b)(2), or with a person of suitable age and discretion who resides at the Respondent’s last known dwelling pursuant to Section 766.3(b)(3), and a certificate of service is signed by the person making such service stating the method of service and the identity of the person with whom the charging letter was left as indicated in Section 766.3(b)(4).

The clarification discussed above does not affect the findings or conclusions reached by the ALJ concerning Manzarpour’s default or his violations of the Regulations. Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the RDO, with the clarification discussed above.

ACCORDINGLY, IT IS THEREFORE ORDERED,

FIRST, that for a period of twenty (20) years from the date this Order is published in the *Federal Register*, Ali Asghar Manzarpour, Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex BN1 6XU, England, and c/o Maria House, 35 Millers Rd., Brighton BN1 5NP, England, and when acting for or on his behalf, his representatives, agents, assigns, or employees (“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:

- 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 that 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.

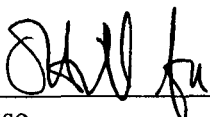
THIRD, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may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

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

FIFTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the *Federal Register*.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the *Federal Register*.

Dated: 3/3/08



Mario Mancuso
Under Secretary of Commerce
for Industry and Security

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY

IN THE MATTER OF:

Ali Asghar Manzarpour
Preston Technical Services, Ltd.-UK
17 Preston Village Mews Middle Road
Brighton East Sussex BN1 6XU
England

and

c/o Maria House
35 Millers Road
Brighton BN1 5NP
England

Respondent

Docket No.

07-BIS-21

RECOMMENDED DECISION AND ORDER

Default

The Bureau of Industry and Security (“BIS” or “Agency”) commenced this administrative enforcement action seeking imposition of sanctions against Ali Asghar Manzarpour, Director of Preston Technical Services, Ltd (“Respondent”). On July 27, 2007, BIS issued and served a Charging Letter by registered mail to Mr. Manzarpour’s last known address. The Charging Letter alleges that on April 28, 2004,¹ Mr. Manzarpour committed three violations of the Export Administration Act of 1979 (“Act”), as amended and codified at 50 U.S.C. App. §§ 2401-20 (2000), and the Export

¹ The charged violation occurred in 2004. The regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. §§ 730-774 (2001-02)). The 2007 regulations codified at 15 C.F.R. Part 766 establish the procedural rules that apply to this matter.

Administration Regulations (“EAR” or “Regulations”), as amended and codified at 15 C.F.R. Parts 730-74 (2007).² To date Mr. Manzarpour has not filed an Answer to the Charging Letter. Pursuant to 15 C.F.R. § 766.7, BIS filed a Motion for Default.

For reasons stated herein, the Motion for Default filed is **GRANTED**.

I. FINDINGS OF FACT

Charge 1 alleges Mr. Manzarpour violated 15 C.F.R. § 764.2(b), on or about April 28, 2004, by causing, aiding, or abetting an act prohibited by the EAR when he ordered a freight forwarding company to export a single engine aircraft from the United States (U.S.) without the required government authorization to the United Kingdom (UK) knowing that Iran was the ultimate destination. Pursuant to Section 560.204 of the Iranian Transactions Regulations, the export of an item to a third country intended for transshipment to Iran is a transaction that requires the Department of the Treasury’s Office of Foreign Assets Controls (“OFAC”) authorization. Under Section 746.7 of the regulations, no person may engage in the exportation of an item subject to both the

² The EAA and all regulations promulgated there under expired on August 20, 2001. *See* 50 U.S.C. App. 2419. Three days before its expiration, on August 17, 2001, the President declared the lapse of the EAA constitutes a national emergency. *See* Exec. Order. No. 13222, *reprinted in* 3 C.F.R. at 783-784, 2001 Comp. (2002). Exercising authority under the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-1706 (2002), the President maintained the effectiveness of the EAA and its underlying regulations throughout the expiration period by issuing Exec. Order. No. 13222 on August 17, 2001. *Id.* The effectiveness of the export control laws and regulations were further extended by successive Notices issued by the President; the most recent being that of August 15, 2007. *See* Notice: Continuation of Emergency Regarding Export Control Regulations, 72 Fed. Reg. 46, 137 (August 15, 2007). Courts have held that the continuation of the operation and effectiveness of the EAA and its regulations through the issuance of Executive Orders by the President constitutes a valid exercise of authority. *See Wisconsin Project on Nuclear Arms Control v. United States Dep’t of Commerce*, 317 F.3d 275, 278-79 (D.C. Cir. 2003); *Times Publ’g Co. v. U.S. Department of Commerce*, 236 F.3d 1286, 1290 (11th Cir. 2001).

Regulations and the Iranian Transactions Regulations without authorization from OFAC.

No OFAC authorization was obtained for the export. (*BIS Exhibit (Ex.) A*).

Charge 2 alleges Mr. Manzarpour violated 15 C.F.R. § 766.2(e), on or about April 28, 2004, by acting with knowledge of a violation when he ordered, sold, and/or bought the aircraft at issue knowing or having reason to know that the item would be transshipped to Iran via the UK without the required U.S. government authorization.

(*Id.*).

Charge 3 alleges Mr. Manzarpour violated 15 C.F.R. § 764.2(h), on or about April 28, 2004, by acting with the intent to evade the EAR when he, acting through his companies, Preston Technical Services Ltd.-UK and Baronmode, Ltd.-UK, acquired the aircraft from U.S. suppliers without disclosing that the intended ultimate destination of the item was Iran, and thereby failing to obtain the required U.S. government license for the transaction. (*Id.*).

BIS first attempted to serve the Charging Letter on July 27, 2007 by registered mail at Mr. Manzarpour's last known address: Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex, BN1 6XU, United Kingdom.

(*Id.*). To date, BIS has not received a return receipt for the registered mail, the Charging Letter has not been returned by the U.S. Post Office, and Mr. Manzarpour has not filed an Answer.³

³ BIS obtained the address for Mr. Manzarpour at Preston Technical Services from two sources: (1) Commercial Invoice No. 2283/04 dated 18-March-2004 for the aircraft at issue in this case; and (2) a written statement dated July 6, 2004 drafted on Preston Technical Services' letterhead and signed by Mr. Manzarpour in his capacity as the organization's Director. (*BIS Ex. B-C*).

Thereafter, on September 4, 2007, BIS made a series of unsuccessful attempts to serve a copy of the Charging Letter through various mediums, including: (a) facsimile sent to the last know Preston Technical Services company fax number listed on the July 6, 2004 written statement signed by Mr. Manzarpour; (b) registered mail sent to Mr. Manzarpour at Baronmode, Ltd.'s last known business address reported in Dunn and Bradstreet as Maria House, 35 Millers Road, Brighton East Sussex BN1 5NP, United Kingdom (the Ultimate Consignee on the Shipper's Export Declaration form dated 4/28/2004 for the export of the aircraft at issue from the United States); (c) six electronic mails ("e-mails") sent to several addresses compiled from a variety of sources; and (d) Federal Express ("FedEx") to Preston Technical Services' address. See (BIS Ex. C-J).

The fax number for Preston Technical Services was no longer in working order; four of the six e-mails failed and the remaining two e-mails were successfully relayed but there are no assurances that they were read; and delivery of the FedEx to Preston Technical Services proved unsuccessful. See (BIS Ex. D, I, J). The Charging Letter sent registered mail on September 4, 2007 to Mr. Manzarpour at Baronmode, Ltd.'s business address located at 35 Millers Road was returned to BIS on December 7, 2007 with "refused" marked on the front of the envelope. See (BIS Ex. U). More specifically, the registered mail return receipt shows that the letter was "refused" on September 20, 2007. (*Id.*)

In the interim, on September 7, 2007, BIS directed FedEx to deliver the Charging Letter to Mr. Manzarpour at Maria House, 35 Millers Road, Brighton East Sussex BN1 5NP, United Kingdom. The Charging Letter was successfully delivered by FedEx to the

address on Millers Road and was signed for by F. Lynn on September 18, 2007. See (BIS Ex. K). To date, Mr. Manzarpour has not filed an Answer to the Charging Letter.

Based on Mr. Manzarpour's failure to file an answer, on December 4, 2007, BIS filed a Motion for Default Order together with a Recommended Decision and Order. BIS filed a Supplement to the Motion for Default Order and an Amended Recommended Decision and Order on December 17, 2007.⁴ In both Motions, BIS seeks imposition of a twenty (20) year Denial Order against Mr. Manzarpour.

II. APPLICABLE LAW/REGULATIONS

The procedural regulations governing service of the Charging Letter instituting administrative enforcement proceedings against a respondent is set forth in 15 C.F.R. § 766.3(b), which states in pertinent part as follows:

(b) Notice of issuance of charging letter instituting administrative enforcement proceeding. A respondent shall be notified of the issuance of a charging letter, or any amendment or supplement thereto:

(1) By mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address;

(2) By leaving a copy with the respondent or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process for the respondent; or

(3) By leaving a copy with a person of suitable age and discretion who resides at the respondent's last known dwelling.

The Under Secretary has upheld that service of the Charging Letter is effective where the Agency makes diligent good-faith efforts to provide actual notice to respondent at the last known address, but never receives a return receipt for the Charging Letter. In

re Modern Engineering Services, Ltd., 65 Fed. Reg. 81,822 (Dec. 27, 2000).⁵ The “date of service” is defined as “the date of . . . delivery [of the Charging Letter], or its attempted delivery if delivery is refused.” 15 C.F.R. § 766.3(c).

A respondent is required to file an answer within thirty (30) days after being served with the Charging Letter. See 15 C.F.R. § 766.6(a). Failure of the respondent to file an answer within the time prescribed by regulation constitutes a waiver of respondent’s right to appear and contest the allegations in the Charging Letter. Id. at 766.7. It also entitles BIS to seek a default judgment. See In re Daqing Zhou, 71 Fed. Reg. 65,775 (Nov. 9, 2006). Section 766.7 further provides that upon BIS’s motion and without further notice to respondent, the judge shall find the facts as to be alleged in the Charging Letter and render an initial or recommended decision and order. 15 C.F.R. § 766.7.

III. DISCUSSION

In this case, BIS has established that notice of the Charging Letter was served on Mr. Manzarpour in accordance with 15 C.F.R. § 766.3(b)(1). BIS presented evidence that on July 27, 2007, the Charging Letter was sent by registered to Mr. Manzarpour at Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex, BN1 6XU, United Kingdom, Respondent’s last known address obtained

⁴ BIS filed the Supplement to the Motion for Default Order and Amended Recommended Decision and Order after receiving the returned Charging Letter sent registered mail on September 4, 2007 to Mr. Manzarpour at Baronmode, Ltd.’s business address located at 35 Millers Road marked “refused.”

from a commercial invoice and a signed written statement. BIS also presented evidence that diligent and good-faith efforts were made to provide actual notice of the Charging Letter to Mr. Manzarpour, including: (a) facsimile to Respondent's last known fax number; (b) FedEx to Respondent's last known address; (c) e-mail to various last known e-mail addresses used by Respondent; and (d) both registered mail and FedEx to Respondent's last known alternate business addresses.

BIS presented evidence that F. Lynn signed for the Charging Letter on September 18, 2007, which was sent to Mr. Manzarpour by FedEx at an a last known alternate address located on 35 Millers Road. In its Supplement to Motion for Default, BIS presented additional evidence that delivery of the Charging Letter, dated September 4, 2007, sent by registered mail to Mr. Manzarpour at the same alternate address, was "refused" on September 20, 2007.

As to the date of service and the date of "refusal", BIS raises three (3) arguments in support of its Motion for Default. First, BIS argues that October 25, 2007 (ninety (90) days after the Charging Letter was first issued) should be deemed the date of attempted delivery and constructive refusal. Second, Respondent argues that the date on which the Charging Letter was successfully delivered to Manzarpour's last known e-mail addresses or September 18, 2007 (i.e., the date in which the Charging Letter was received by F. Lynn via FedEx) might be acceptable as the date of service. Third, BIS argues that

⁵ Although Modern Engineering Services was issued by the predecessor to the Bureau of Industry & Security, the Bureau of Export Administration, the statements of law enunciated therein serves as appropriate guidance.

September 20, 2007 (i.e., the date in which delivery of the registered mail to Manzarpour at his last known alternate address) should be considered the date of service.

In an effort to shed some light on determining the date of service, BIS's arguments are address in full detail.

1) *October 25, 2007 is not an acceptable date of service*

First, in its initial Motion for Default dated December 4, 2007, BIS argued that the date of service should be October 25, 2007 (i.e., ninety (90) days after the date in which the Charging Letter was first sent via registered mail to Respondent). To support its argument, BIS relies on Modern Engineering Services. This argument is rejected because, in the present case, the ninety (90) day time period for registered mail delivery from the U.S. to the UK is speculative.

BIS's reliance on Modern Engineering Services is misplaced. The ninety (90) day period discussed in that case was based on information received from the U.S. Post Office establishing that it takes a maximum of ninety (90) days for registered mail sent from the U.S. to reach Pakistan. See 65 Fed. Reg. 81,822. In other words, the ninety (90) day period was case specific it did not establish a bright line rule to be applied in all BIS cases.

In the present case, BIS presented no evidence concerning the maximum amount of time it takes registered mail sent from the U.S. to reach the UK. Without such evidence BIS's argument fails.

2) *The date of successful delivery of the Charging Letter on September 4, 2007 to Respondent's last known e-mail addresses and the date in which the Charging Letter was received by F.Lynn via FedEx are not acceptable as the date of service*

BIS's alternative argument raised in its Motion for Default is that September 4, 2007 or September 18, 2007 could be deemed the date of service. September 4, 2007 is the date when two messages containing the Charging Letter were successfully relayed to Respondent's last known e-mail addresses. Conversely, September 18, 2007 is the date in which F. Lynn signed for the FedEx package containing the Charging Letter sent to Respondent's last known alternate business address. The problem with both methods of service is that they are not authorized under 15 C.F.R. § 766.3(b) as an acceptable means of obtaining service. As such, BIS's alternative argument is rejected.

3) *September 20, 2007 is the true date of service*

Third, in its supplemental Motion for Default Order, BIS argues that the date of service should be September 20, 2007, which is the date delivery of the Charging Letter by registered mail was "refused." This argument is well taken.

BIS has established that in a good-faith effort to provide Respondent with notice of the Charging Letter, a courtesy copy was sent via registered mail on September 4, 2007 to Respondent at an alternate address located at 35 Miller Road in accordance with 15 C.F.R. § 766.3(b). BIS presented evidence that on September 20, 2007 delivery of the Charging Letter was attempted and "refused". Thus, under 15 C.F.R. § 766.3(c), September 20, 2007 is deemed the effective date of service based on the "refusal." This means that 15 C.F.R. § 766.6(a) required Mr. Manzarpour to file an Answer to the

Charging Letter no later than October 30, 2007 (i.e., 30 days after service of the Charging Letter). To date, Respondent has not filed an Answer. Accordingly, BIS is entitled to a default judgment, and Respondent is deemed to have waived his right to appear and contest the allegations in the Charging Letter.

IV. CONCLUSION OF LAW

Pursuant to the default procedures set forth in 15 C.F.R. § 766.7, Mr. Manzarpour is found to have committed one violation of Section 764.2(b), one violation of Section 764.2(e), and one violation of Section 764.2(h) as alleged in the Charging Letter.

V. PENALTY ASSESSMENT

Section 764.3 of the EAR sets forth the sanctions BIS may seek for violations. The sanctions include: (i) a monetary penalty; (ii) suspension from practice before BIS, and (iii) denial of export privileges. See 15 C.F.R. § 766.3. A denial order may be considered an appropriate sanction even in matters involving simple negligence or carelessness, if the violation involves “harm to the national security or other essential interests protected by the export control system,” if the violations are of such a nature and extent that a monetary fine alone represents an insufficient penalty. See 15 C.F.R. Part 766, Supp. No. 1, III, A.

Based on the severity of Mr. Manzarpour’s actions, a 20-year denial of Mr. Manzarpour’s export privileges is recommended. Such a denial order is consistent with sanctions imposed in similar cases. For instance, in In re Yaudat Mustafa Talvi a/k/a Yaudat Mustafa a/k/a Joseph Talvi, the Under Secretary affirmed a 20-year denial order and civil penalty of \$121,000 for the unauthorized export of oil field parts to Libya where

respondent solicited a violation of the EAR with knowledge that a violation would occur. 69 Fed. Reg. 77,177 (Dec. 27, 2004). Similarly, in In re Daqing Zhou, a 20-year denial order was affirmed where respondent conspired to export and caused the export of items controlled for national security reasons to China without the required license and with knowledge that a violation would occur. 71 Fed. Reg. 65,775.

In this case, BIS established that a 20-year denial order is appropriate because of Mr. Manzarpour's severe disregard for U.S. export laws and regulations. The facts found proved shows that Mr. Manzarpour caused a violation of the EAR by ordering a freight forwarder to export a single engine aircraft to Iran without the required U.S. government authorization. (*BIS Ex. C, L, M, P and R*). The aircraft was classified under ECCN 9A991.b and controlled for anti-terrorism (AT) reasons. The facts found proved also establish that Mr. Manzarpour knew that the U.S.-origin item could not be sold to sanction countries, such as Iran; a fact Mr. Manzarpour acknowledged during an interview with UK Customs officials. (*BIS Ex. C, O at 11-13*). Yet, Mr. Manzarpour failed to disclose the aircraft's ultimate destination from U.S. suppliers in an attempt to evade the EAR. Therefore, no OFAC authorization was obtained for the transaction. (*BIS Ex. P*).

These actions cannot be condoned. The 20-year denial order is further supported where, as in this case, Respondent shows a history of attempting to evade U.S. export control laws and regulations. BIS presented evidence that there is a pending criminal indictment against Mr. Manzarpour in the U.S. District Court for the District of Columbia involving the acts described in the Charging Letter as well as other exports and attempted

exports of items subject to the EAR from the United States to Iran via Austria. (*BIS Ex. S*). BIS presented additional evidence that Mr. Manzarpour has indicated in public statements to UK media that the transactions are legal. (*BIS Ex. T at 4*). Given his past actions and recent statements, there is a strong likelihood that future sales of U.S.-origin goods would be diverted to Iran in violation of the Iranian Transaction Regulations and the EAR. Future detection of such violations might prove difficult given the fact that Mr. Manzarpour lives and operates business abroad.

In light of the above, denial of Mr. Manzarpour's U.S. export privileges is an appropriate sanction. This is especially true given the fact assessment of a monetary penalty alone might prove inadequate and, based on Mr. Manzarpour's business operations abroad, BIS would likely face difficulties collecting a monetary penalty.

VI. RECOMMENDED ORDER⁶

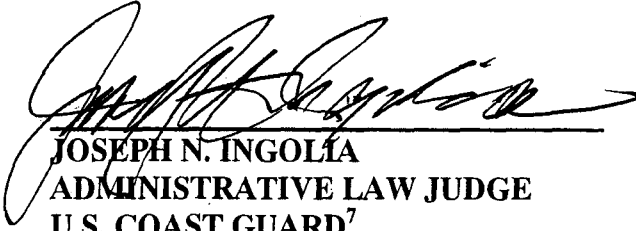
[REDACTED SECTION]

Accordingly, this Recommended Decision and Order is being referred to the Under Secretary for Industry & Security for review and final action for the agency, without further notice to the respondent as provided in Section 766.7 of the Regulations.

Pursuant to Section 766.22(b), the parties have 12 days from the date of issuance of this recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 C.F.R. § 766.22(c).

Done and dated February 4, 2008.
Baltimore, Maryland



JOSEPH N. INGOLIA
ADMINISTRATIVE LAW JUDGE
U.S. COAST GUARD⁷

⁷ United States Coast Guard Administrative Law Judges perform adjudicatory functions required for the Bureau of Industry and Security with approval from the Office of Personnel Management pursuant to a memorandum of understanding between the Coast Guard and the Bureau of Industry and Security.



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Mr. Ali Asghar Manzarpour
Director
Preston Technical Services, Ltd.-UK
17 Preston Village Mews Middle Road
Brighton East Sussex BN1 6XU
England

JUL 27 2007

Dear Mr. Manzarpour:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that you, Ali Asghar Manzarpour, director of Preston Technical Services, Ltd.-UK; Preston Technology, Ltd.-UK; Baronmode, Ltd.-UK; Eurotrade, Ltd.-UK; and Chandler Laboratories-UK, in your individual capacity (hereinafter "Manzarpour"), have committed three 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 Manzarpour committed the following violations:

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

On or about April 28, 2004, Manzarpour caused, aided, or abetted in the doing of an act prohibited by the Regulations by facilitating and coordinating the export of a single engine aircraft, which is subject to the Regulations, classified under Export Control Classification Number (ECCN) 9A991.b and controlled for anti-terrorism (AT) reasons, to Iran without the required U.S. government authorization. Specifically, Manzarpour ordered a freight forwarding company to ship the aircraft from the United States to the United Kingdom (UK) knowing that Iran was the ultimate destination. Upon its arrival in the UK, Manzarpour instructed the freight forwarder to transship the item to Iran, but the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2007). The alleged violations occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2004)). The 2007 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, the Act has been in lapse, and the President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 Fed. Reg. 44,551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706 (2000)). The Act and the Regulations are available on the Government Printing Office website at: <http://www.access.gpo.gov/bis/>.



item was detained before leaving the UK. Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the export of an item to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Under Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export described herein. In engaging in the activity described herein, Manzarpour committed one violation of Section 764.2(b) of the Regulations.

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

In connection with charge one above, on or about April 28, 2004, Manzarpour violated the Regulations by ordering, selling, and/or buying the export of items subject to the Regulations from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Manzarpour ordered, bought, and/or sold an aircraft subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran via the UK without the required U.S. Government authorization. Manzarpour had knowledge that U.S. items could not be sold to sanctioned countries, including Iran, a fact he acknowledged during an interview with UK Customs officials. In so doing, Manzarpour committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. §764.2(h) – Engaging in a Transaction with Intent to Evade the Regulations

In connection with charge one above, on or about April 28, 2004, Manzarpour took actions with intent to evade the Regulations. Specifically, Manzarpour, acting through his companies, Preston Technical Services Ltd.-UK and Baronmode, Ltd.-UK, acquired an aircraft subject to the Regulations and classified as ECCN 9A991.b, from U.S. suppliers with intent to transship such items to Iran. Manzarpour and companies failed to inform the U.S. suppliers of the ultimate destination of the item and, as such, no license was obtained from the U.S. Government for this transaction, as was required by Section 746.7 of the Regulations. In so doing, Manzarpour committed one violation of Section 764.2(h) of the Regulations.

* * * * *

Accordingly, Manzarpour is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

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- The maximum civil penalty allowed by law of up to \$11,000 per violation;³
- Denial of export privileges; and/or
- Exclusion from practice before BIS.

If Manzarpour 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 (2007). If Manzarpour defaults, the Administrative Law Judge may find the charges alleged in this letter are true without a hearing or further notice to Manzarpour. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each of the charges in this letter.

Manzarpour 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 (2007). Manzarpour is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. 15 C.F.R. §§ 766.3(a) and 766.4 (2007).

Manzarpour is additionally notified that under the Small Business Regulatory Enforcement Flexibility Act, he may be eligible for assistance from the Office of the National Ombudsman of the Small Business Administration in this matter. To determine eligibility and get more information, please see: <http://www.sba.gov/ombudsman/>.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2007). Should Manzarpour have a proposal to settle this case, Manzarpour or his representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Manzarpour'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 Manzarpour's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Adrienne Frazier, Esq.
Room H-3839
United States Department of Commerce

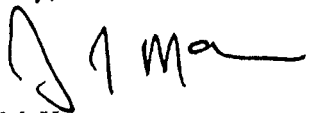
³ *See* 15 C.F.R. § 6.4(a)(4) (2004).

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14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

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

Sincerely,

A handwritten signature in black ink, appearing to read "J McKenna". The signature is written in a cursive style with a long horizontal stroke at the end.

John McKenna
Acting Director
Office of Export Enforcement