



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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

John Clements  
President  
Minequip Corporation  
1781 NW 79 Avenue  
Miami, Florida 33126

**DRAFT**

Attn: *John Clements*  
*President*

Dear Mr. Clements:

The Bureau of Industry and Security, United States Department of Commerce (“BIS”)<sup>1</sup> has reason to believe that you (“Clements”) violated the Export Administration Regulations (the “Regulations”),<sup>2</sup> which are issued under the authority of the Export Administration Act of 1979 (the “Act”),<sup>3</sup> on two occasions. Specifically, BIS charges that Clements committed the following violations:

**Charge 1 (15 C.F.R. §764.2(d) - Conspiracy to Violate U.S. Export Control Laws)**

Beginning in September 2001 and continuing through May 2002, Clements conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without the U.S. Government authorization required by Section 764.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Clements, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through

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<sup>1</sup> Effective April 18, 2002, the Bureau of Export Administration changed its name to the Bureau of Industry and Security. This name change does not affect any substantive issues in this case.

<sup>2</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2002). The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001 -2002). The 2001 and 2002 Regulations are substantially the same and the 2002 Regulations govern the procedural aspects of this case.

<sup>3</sup> 50 U.S.C. app. §§ 2401- 2420 (1994 & Supp. V 1999). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 *Fed. Reg.* 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>



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the United Kingdom and Germany to their ultimate destination in Libya. In doing so, Clements committed one violation of Section 764.2(d) of the Regulations.

**Charge 2 (15 C.F.R. §764.2(e) - Forwarding Items Knowing that a Violation of the Regulations was to Occur)**

On or about April 30, 2002, in connection with the conspiracy referenced in Charge 1, Clements caused the parts for hydraulic shears to be forwarded from a U.S. company to Clements knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Clements knew that U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export. Therefore, BIS alleges that Clements committed one violation of Section 764.2(e) of the Regulations.

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

The maximum civil penalty allowed by law of \$12,000 per violation;<sup>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Clements 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. (Regulations, Sections 766.6 and 766.7). If Clements defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to Clements. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each charge in this letter.

Clements 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. (Regulations, Section 766.6). Clements is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

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<sup>4</sup>Pursuant to the Federal Civil Penalties Adjustment Act of 1990 (28 U.S.C. §2461, note (1994 & Supp. V 1999)), and 15 C.F.R. §6.4(a)(2), the maximum penalty for each violation committed after November 1, 2000 is \$12,000.

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The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should you have a proposal to settle this case, you or your representative should transmit it to me through the attorney representing BIS named below.

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

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

Melissa B. Mannino is the attorney representing BIS in this case; any communications that you may wish to have concerning this matter should occur through her. She may be contacted by telephone at (202) 482-5301.

Sincerely,

Mark D. Menefee  
Director  
Office of Export Enforcement

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

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In the Matter of: )  
)  
John Clements )  
President, Minequip Corporation, )  
in his individual capacity )  
1781 NW 79 Avenue )  
Miami, Florida 33126, )  
)  
Respondent. )  
\_\_\_\_\_)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, John Clements, President of Minequip Corporation, in his individual capacity, (“Clements”), and the Bureau of Industry and Security, United States Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2002)) (“Regulations”),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> and which are currently maintained in force under the International Emergency Economic Powers Act (50 U.S.C. §§1701 - 1706 (2000)).

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<sup>1</sup> The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001-2002). The 2001 Regulations are substantially the same as the 2002 Regulations. The procedural aspects of this case are governed by the 2002 Regulations.

<sup>2</sup> 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)), as extended by the Notice of August 14, 2002 (67 Fed. Reg. 53721 (August 16, 2002)), has continued the Regulations in effect under IEEPA.

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

WHEREAS, BIS has issued a proposed charging letter to Clements that alleged that Clements committed two violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. §764.2(d)- Conspiracy:* Beginning in or about September 2001 and continuing through in or about May 2002, Clements, as President of Minequip Corporation, conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without prior authorization from BIS as required by Section 746.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Clements, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through the United Kingdom and Germany to their ultimate destination in Libya.
2. *One Violation of 15 C.F.R. §764.2(e)- Forwarding Items Knowing that a Violation of the Regulations was to Occur:* In connection with conspiracy referenced above, Clements, as President of Minequip Corporation, caused the parts for hydraulic shears to be forwarded from a U.S. company to Clements knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Clements knew that

U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export.

WHEREAS, Clements has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;

WHEREAS, Clements fully understands the terms of this Agreement and the Order of the Assistant Secretary of Commerce for Export Enforcement that will implement this Agreement (“Order”);

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

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

WHEREAS, Clements neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Clements wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Clements agrees to be bound by the Order, when entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Clements, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. BIS and Clements agree that the following sanction shall be imposed against Clements in complete settlement of the violations of the Regulations set forth in the proposed charging letter:

- a. Clements shall be assessed a civil penalty in the amount of \$12,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Clements. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all of Clements's export privileges for a period of one year from the date of imposition of the penalty.

3. Clements agrees that, subject to the approval of this Agreement pursuant to paragraph 8 hereof, he hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, when entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, when entered; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, when entered.

4. Upon entry of the Order, BIS will not initiate any further administrative proceeding against Clements in connection with any violation of the Act or the Regulations arising out the transactions identified in the proposed charging letter.

5. Clements understands that BIS will make the proposed charging letter, this Agreement, and the Order, when entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

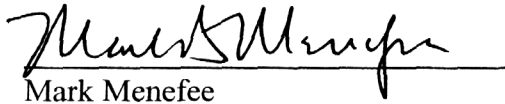
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, when entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only when the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.



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

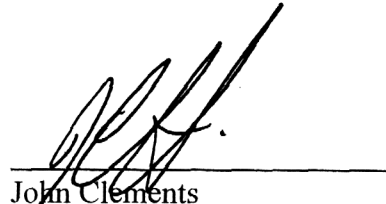
BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE



Mark Menefee  
Director  
Office of Export Enforcement

Date: 3/17/03

JOHN CLEMENTS



John Clements  
in his individual capacity

Date: 3/06/03

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

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In the Matter of: )  
 )  
John Clements )  
President, Minequip Corporation, )  
in his individual capacity )  
1781 NW 79 Avenue )  
Miami, Florida 33126, )  
 )  
Respondent. )  
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ORDER

The Bureau of Industry and Security, United States Department of Commerce (“BIS”) having notified John Clements, President of Minequip Corporation, (“Clements”) of its intention to initiate an administrative proceeding against Clements in his individual capacity pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>1</sup> and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2003)) (“Regulations”),<sup>2</sup> based on the proposed charging letter issued to Clements that alleged that Clements violated the Export Administration Regulations on two occasions. Specifically, the charges are:

1. *One Violation of 15 C.F.R. §764.2(d)- Conspiracy:* Beginning in or about September 2001 and continuing through in or about May 2002, Clements, as

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<sup>1</sup> 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)), as extended by the Notice of August 7, 2003 (68 Fed. Reg. 478333, August 11, 2003), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The violations charged occurred in 2001 and 2002. The Regulations governing the violations at issue are found in 15 C.F.R. Parts 730-774 (2001-2002). The 2001 Regulations are substantially the same as the 2003 Regulations. The procedural aspects of this case are governed by the 2003 Regulations.

President of Minequip Corporation, conspired and acted in concert with others, known and unknown, to violate the Regulations. The purpose of the conspiracy was to export spare parts for hydraulic shears, items subject to the Regulations, from the United States to Libya without prior authorization from BIS as required by Section 746.4 of the Regulations. To accomplish the conspiracy, the conspirators, including Clements, participated in a scheme to buy parts for hydraulic shears from a U.S. company and then to export the parts from the United States through the United Kingdom and Germany to their ultimate destination in Libya.

2. *One Violation of 15 C.F.R. §764.2(e)- Forwarding Items Knowing that a Violation of the Regulations was to Occur:* In connection with conspiracy referenced above, Clements, as President of Minequip Corporation, caused the parts for hydraulic shears to be forwarded from a U.S. company to Clements knowing that the parts were to be exported from the United States to Libya in violation of the Regulations. At all times relevant hereto, Clements knew that U.S. Government authorization was required to export the parts from the United States to Libya, and that the U.S. Government had not authorized the export.

BIS and Clements having 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 the terms of the Settlement Agreement having been approved by me;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$12,000 is assessed against Clements, which shall be paid to

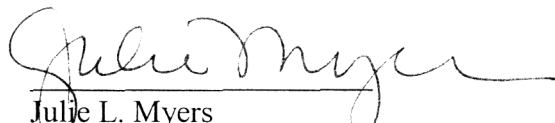
the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

SECOND, that, 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, Clements 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, that the timely payment of the civil penalty 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 Clements. Accordingly, if Clements should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Clements's export privileges for a period of one year from the date of entry of this Order.

FOURTH, 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.

  
Julie L. Myers  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 4<sup>th</sup> day of November 2003.