

DEC - 4 2003



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

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Mr. Kiarash Arastafar
Westboschlaan, 151A
2265 EN Leidschendam
The Netherlands

Dear Mr. Arastafar:

The Bureau of Industry and Security, United States Department of Commerce ("BIS"), has reason to believe that you, Kiarash Arastafar ("Arastafar"), as representative of Chemical Industries Consolidated b.v. ("CIC") 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 (the "Act").² Specifically, BIS charges that Arastafar committed the following violations:

Charge 1 15 C.F.R. § 764.2(c) - Solicitation of the Unlicensed Export of Items to Iran

From on or about July 15, 2002 to on or about January 28, 2003, Arastafar solicited the export of gas processor parts, items subject both to the Regulations (EAR99³) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC") and located in the United States, to Iran via the Netherlands without the authorization from OFAC

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2003). The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002) to (2003)). The Regulations define the violations that BIS has charged and establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401- 2420 (2000). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2003 (68 *Fed. Reg.* 47833, August 11, 2003), continues 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/>.

³ The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).



required by Section 746.7 of the Regulations. In so doing, Arastafar committed one violation of Section 764.2(c) of the Regulations.

Charge 2 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation - Ordering Items to be Exported Without Required Authorization

In connection with the solicitation referenced in Charge 1 above, Arastafar ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items. In so doing, Arastafar committed one violation of Section 764.2(e) of the Regulations.

Charge 3 15 C.F.R. § 764.2(h) - Evasion - Attempting to Evade the Provisions of the EAR

In connection with the solicitation referenced in Charge 1 above, Arastafar took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that CIC would subsequently ship the items to Iran (a destination requiring an export license for these items). In so doing, Arastafar committed one violation of Section 764.2(h) of the Regulations.

Accordingly, Arastafar is hereby notified that an administrative proceeding is instituted against it pursuant to 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 \$11,000 per violation;⁴

Denial of export privileges; and/or

Exclusion from practice before BIS.

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

Arastafar is further notified that it is entitled to an agency hearing on the record if Arastafar files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. Arastafar is also entitled to be

⁴ *See* 15 C.F.R. § 6.4(a)(2).

represented by counsel or other authorized representative who has power of attorney to represent it. *See* 15 C.F.R. §§ 766.3(a) and 766.4.

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18. Should you have a proposal to settle this case, your 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, Arastafar's answer must be filed in accordance with the instructions set forth in Section 766.5(a) of the Regulations with:

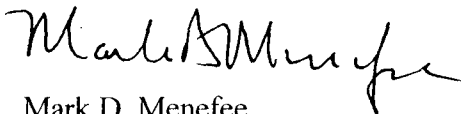
U.S. Coast Guard ALJ Docketing Center
40 S. Gay Street, Baltimore, Maryland 21202-4022

In addition, a copy of Arastafar's answer must be served on BIS at the following address:

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

Philip Ankel is the attorney representing BIS in this case. Any communications that you may wish to have concerning this matter should occur through him. He 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

In the Matter of:)	
)	
Mr. Kiarash Arastafar)	03-BIS-14
Westboschlaan, 151A)	
2265 EN Leidschendam)	
The Netherlands)	
)	
Respondent.)	

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Kiarash Arastafar, and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(b) of the Export Administration Regulations (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

¹ The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002 - 2003)). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

WHEREAS, BIS has initiated an administrative proceeding against Kiarash Arastafar, pursuant to the Act and the Regulations;

WHEREAS, BIS has issued a charging letter to Kiarash Arastafar that alleged that Kiarash Arastafar committed three violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 764.2(c) - Solicitation of the Unlicensed Export of Items to Iran:* From on or about July 15, 2002 to on or about January 28, 2003, Kiarash Arastafar solicited the export of gas processor parts, items subject both to the Regulations (EAR99³) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC") and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by Section 746.7 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation:* In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items. Kiarash Arastafar knew that U.S. government authorization was required for the purported export and would not be obtained.
3. *One Violation of 15 C.F.R. § 764.2(h) - Attempting to Evade the Provisions of the Regulations:* In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar took action with the intent to evade the Regulations by urging

³ The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

the purported exporter to ship the items in question to the Netherlands from the United States, with the understanding that the items would subsequently be shipped to Iran (a destination requiring an export license for these items).

WHEREAS, Kiarash Arastafar has reviewed the 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, Kiarash Arastafar fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if she approves this Agreement as the final resolution of this matter;

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

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

WHEREAS, Kiarash Arastafar neither admits nor denies the allegations contained in the charging letter;

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

WHEREAS, Kiarash Arastafar agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against Kiarash Arastafar in complete settlement of the violations of the Regulations set forth in the charging letter:

- a. For a period of 15 years from the date of entry of the Order, Kiarash Arastafar, and when acting for or on behalf of Kiarash Arastafar, his representatives, agents, assigns or employees (“Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:
 - i. Applying for, obtaining, or using any license, License Exception, or export control document;
 - ii. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
 - iii. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Kiarash Arastafar 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 entered), including, without

limitation, any right to: (a) an administrative hearing regarding the allegations in the charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. BIS agrees that, upon entry of the Order, it will not initiate any administrative proceeding against Kiarash Arastafar in connection with any violation of the Act or the Regulations arising out of the transactions identified in the charging letter.

5. BIS will make the charging letter, this Agreement, and the Order, if entered, available to the public and record of the case as described in Section 766.22 of the Regulations.

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

7. No 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 entered, 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.

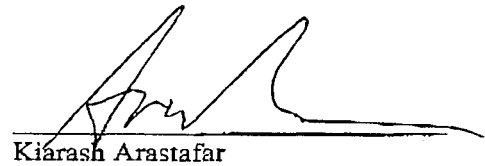
8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

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.

OFFICE OF CHIEF COUNSEL FOR
INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE

KIARASH ARASTAFAR


Roman W. Sloniewsky
Acting Chief Counsel


Kiarash Arastafar

Date: 2/22/05

Date: February 18, 2005

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

In the Matter of:)	
)	
Mr. Kiarash Arastafar)	03-BIS-14
Westboschlaan, 151A)	
2265 EN Leidschendam)	
The Netherlands)	
)	
Respondent.)	
)	

ORDER RELATING TO KIARASH ARASTAFAR.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) having initiated an administrative proceeding against Kiarash Arastafar, pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a charging letter to Kiarash Arastafar that

¹ The charged violations occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002 - 2003)). The 2004 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. 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 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the IEEPA.

alleged that Kiarash Arastafar committed three violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(c) - Solicitation of the Unlicensed Export of Items to Iran:* From on or about July 15, 2002 to on or about January 28, 2003, Kiarash Arastafar solicited the export of gas processor parts, items subject both to the Regulations (EAR99³) and the Iranian Transactions Regulations of the Treasury Department's Office of Foreign Assets Control ("OFAC") and located in the United States, to Iran through the Netherlands without the authorization from OFAC required by Section 746.7 of the Regulations.
2. *One Violation of 15 C.F.R. § 764.2(e) - Acting with Knowledge of a Violation:* In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar ordered the above-described items with knowledge that a violation of the Regulations was intended to occur in connection with the items. Kiarash Arastafar knew that U.S. government authorization was required for the purported export and would not be obtained.
3. *One Violation of 15 C.F.R. § 764.2(h) - Attempting to Evade the Provisions of the Regulations:* In connection with the solicitation referenced in paragraph 1 above, Kiarash Arastafar took action with the intent to evade the Regulations by urging the purported exporter to ship the items in question to the Netherlands from the

³ The term "EAR99" refers to items subject to the Regulations that are not listed on the Commerce Control List. See 15 C.F.R. § 734.3(c).

United States, with the understanding that the items would subsequently be shipped to Iran (a destination requiring an export license for these items).

WHEREAS, BIS and Kiarash Arastafar have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

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

IT IS THEREFORE ORDERED:

FIRST, that for a period of 15 years from the date of entry of this Order, Kiarash Arastafar, Westboschlaan, 151A, 2265 EN Leidschendam, The Netherlands, and when acting for or on behalf of Kiarash Arastafar, 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 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 Kiarash Arastafar 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 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 a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations

SIXTH, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public and record of the case as described in Section 766.22 of the Regulations.

SEVENTH, that this Order shall be served on the Denied Person and on BIS, and shall be published in the *Federal Register*.

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

Wendy L. Wysong
Wendy L. Wysong
Acting Assistant Secretary of Commerce
for Export Enforcement

Entered this 24th day of February 2005.