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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Relating to Afshin (“Sean”) Naghibi

In the Matter of:

Afshin (“Sean”) Naghibi, 9426 Blessing Drive, Pleasanton, CA 94588, Respondent.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Afshin (“Sean”) Naghibi of Pleasanton, California (“Naghibi”), of its intention to initiate an administrative proceeding against Naghibi 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 Naghibi that alleges that Naghibi committed seventeen violations of the Regulations. Specifically, the charges are:

Charge 1 15 CFR 764.2(d)— Conspiracy

Beginning at least in November 2008 and continuing through in or about April 2010, Naghibi conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to bring about the export of ultrasound equipment and related accessories, items

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The violations alleged occurred in 2008–2010. The Regulations governing the violations at issue are found in the 2008–2010 versions of the Code of Federal Regulations, 15 CFR Parts 730–774 (2008–2010). The 2013 Regulations govern the procedural aspects of this case.

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 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 FR 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (2006 & Supp. IV 2010).

designated as EAR99³ and valued at \$1,468,950, by United Medical Instruments, Inc., a San Jose, California company, from the United States through Belgium, to Iran. The items were also subject to the Iranian Transaction Regulations (“ITR”)⁴ maintained by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”). Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transactions described herein.

Specifically, in furtherance of the conspiracy, Naghibi, through UMI, for which Naghibi served as Chief Operational Officer and International Sales Manager, participated in a scheme to export medical equipment to Iran without a license. The object of this conspiracy remained the same, even though the conspirators changed their method of accomplishing this objective during the related U.S. Government investigation. In furtherance of the conspiracy, Naghibi and Taban Saar, an Iranian individual, asked Bart Coppers (“Coppers”), who is the owner and President of Belgian company BVBA Coppers (“BVBA”) and administrator and part owner of Belgian company Raytec SA (“Raytec”), to ship ultrasound units for UMI to Taban Saar in Iran for a small commission, according to statements made by Coppers during a Department of Commerce Post-Shipment Verification of Raytec. Coppers reported to the Department of Commerce that he met individuals representing UMI and Taban Saar at a conference in the United Arab Emirates, and that UMI and Taban Saar indicated at that time to Coppers that they had a problem selling directly from the United States to Iran.

Between November 2008 and February 2009, in furtherance of the conspiracy, Asghar Naderpour a/k/a Nader Naderpour (“Naderpour”), an Iranian individual affiliated with Taban Saar, used a personal email account and sent purchase orders directly to Naghibi of UMI for medical equipment. To assist UMI in filling these orders, Naghibi arranged to transship the exports through BVBA in Belgium to Taban Saar in Iran. At times, UMI included in its order forms the note “BVBA c/o Taban,” which indicated that the shipment was going through the Belgian company BVBA for Iranian co-conspirator Taban Saar. Naghibi, through UMI, also attempted to conceal Taban Saar’s address by only identifying the Iranian company’s street address on shipping

and invoice documents. On such documents, UMI did not include the country of ultimate destination, which was Iran. The street address, however, was the same one in Iran that was listed on Taban Saar’s Web site. On the same invoices and shipping documents, UMI listed Taban Saar’s Iranian phone number.

On February 13, 2009, OFAC issued an administrative subpoena to UMI seeking documents and information related to certain funds transfers, dated between January 3, 2007 and June 30, 2008, that appeared to be in violation of the ITR. Despite the OFAC subpoena, from February 2009 until April 2009, for approximately two and a half months, Naghibi, on behalf of UMI, continued to take orders directly from Naderpour from Naderpour’s personal email account, and BVBA continued to transship the ordered items through Belgium to Iran once it received them from UMI. During this period, however, UMI again took steps to attempt to conceal the fact that it knew the exports were intended for Iran. In furtherance of the scheme, in an email dated March 13, 2009, the Iranian party Naderpour told Coppers, “UMI requested me to ask you to send an email to them with the following text. ‘*The coppers bvba [sic] sell all ultrasound machines to the belgium [sic] market which order to UMI company in the USA.*’” (Emphasis in original.) With this email, Taban Saar, at the direction of UMI and Naghibi, attempted to create a written record suggesting that UMI was unaware that the orders actually were intended for Iran. Furthermore, as the International Sales Manager, Naghibi knew or had reason to know that transshipments to Iran were prohibited because, *inter alia*, UMI began including a specific notice of the prohibition on its shipping and invoice documents beginning in February 2009. Specifically, on its invoices, UMI included a statement to its customers that the shipped items were intended for the “ship to” country and that, “[d]iversion contrary to US law prohibited. US law currently prohibits sale of products without appropriate export license to the following countries: Iran, Lybia [sic], Syria, N. Korea, Cuba and Sudan.”

Additionally, in furtherance of the conspiracy, from August 2009 to April 2010, the conspirators changed the structure of the scheme by using Raytec to place orders with UMI rather than BVBA to further conceal the fact that Naghibi and UMI knew that the items were intended for Iran. Naghibi no longer took orders directly from Taban Saar from Naderpour’s personal email account. Instead, Naghibi took steps to conceal the business relationship between Taban Saar and UMI by having Taban Saar use Coppers of BVBA and Raytec to place orders with and make payments to UMI on behalf of Taban Saar. Specifically, Iranian purchaser Taban Saar would provide order requests to Coppers in his capacity with BVBA or

³ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 CFR 734.3(c) (2008–2010).

⁴ 31 CFR Part 560 (2008–2010).

Raytec, and the Belgian companies would then issue purchase orders to UMI on Taban Saar's behalf. At times, Taban Saar used the same arrangement to pay UMI, and would send payment to BVBA or Raytec, which then transferred Taban Saar's funds to UMI. To further conceal the fact that it knew the items were intended for Iran, UMI and Naghibi also had both BVBA and Raytec sign a "Customer Assurance Letter" that stated that the Belgian companies understood that: 1) "[a]ll products delivered . . . by United Medical Instruments (UMI) are for distribution exclusively in Belgium;" 2) prior to any reexport, the customer will notify UMI and assure that the company "will abide by the Export Administration Regulations as issued by the United States Government, Bureau of Industry and Security;" and 3) "[s]pecific countries to which no shipment will be made are Cuba, Iran, North Korea, Sudan and Syria."

Despite efforts to conceal UMI's and Naghibi's involvement with the Iranian transactions, in furtherance of the conspiracy, Naderpour of Taban Saar and Naghibi of UMI continued to communicate regarding the purchase orders and payments. In an email dated December 17, 2009, Naderpour stated, "UMI has not received the P/O yet," and asked Coppers to "send again." In another email communication, Coppers referenced receiving a bank transfer from Naderpour for payment for items ordered by Taban Saar, via Belgium, from UMI. Because there was a discrepancy between the amount of the wire transfer and the amount listed on the purchase order, Coppers asked Naderpour to confirm the amount with Naghibi on Coppers's behalf, stating, "Please, ask Mr. Sean [Naghibi of UMI] if 12000 USD is oke [sic]. I can phone to the bank tomorrow and sent [sic] the wire transfer." In addition, in an email dated January 8, 2010, Coppers asked whether Naderpour had spoken to Sean Naghibi of UMI regarding "our relation between Coppers BVBA and UMI." Naderpour responded in an email dated January 14, 2010, stating, "I talked to Sean [Naghibi] [f]or coppers [sic] business with UMI" and stated, "No problem Go ahead with him." These emails indicate that co-conspirators Taban Saar and Naghibi, on behalf of UMI, coordinated to ensure that shipments and payments were handled pursuant to their instructions through the Belgian middle parties.

At all times during the conspiracy, Naghibi knew or had reason to know that the transactions required a license. In 2003, UMI had applied for an OFAC license for medical equipment, but OFAC sent a letter stating that the application was deficient because UMI had not submitted, among other things, the full name and addresses of all parties involved in the transaction and their roles and a description of all items to be exported. The 2003 application to OFAC was signed by Naghibi, who identified himself as the Chief Operational Officer for UMI. Later, on July 26, 2007, BIS's Office of Export Enforcement conducted an outreach visit to UMI and spoke with Chief Financial Officer Naghibi and UMI's office manager regarding transactions with Iran. Although UMI's representatives claimed limited knowledge of

the Regulations, they acknowledged familiarity with the Shipper's Export Declaration. In an email dated August 7, 2007, following the outreach visit, Naghibi stated to an OEE agent that he was aware that "none of our shipments can eventually end up in a boycotted country."

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

**Charges 2–17 15 CFR 764.2(h)—
Evasion of the Regulations by Selling
Medical Equipment to Iran Without a
License**

On or about November 28, 2008, through in or about April 3, 2010, Naghibi took actions to evade the Regulation. Specifically, Naghibi, as Chief Operational Officer and International Sales Manager of U.S. company UMI, exported without a license from the United States to Iran, through Belgium, ultrasound equipment and related accessories, items designated as EAR99⁵ and valued at \$1,468,950, by UMI, from the United States through Belgium, to Iran. The items were also subject to the Iranian Transaction Regulations ("ITR")⁶ maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"). Pursuant to Section 560.204 of the ITR, an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transaction described herein.

Specifically, Naghibi, acting on behalf of UMI, took actions to evade the Regulations by asking Bart Coppers of Belgian companies BVBA and Raytec to ship ultrasound units for UMI to Iran for a small commission, according to statements made by Coppers during a Department of Commerce Post-Shipment Verification of Raytec. Coppers reported to the Department of Commerce that he met individuals representing UMI and Taban Saar at a conference in the United Arab Emirates, and that UMI and Taban Saar indicated at that time to Coppers that they had a problem selling directly from the United States to Iran.

Using the arrangement agreed to with Coppers, between November 2008 and February 2009, Naghibi, through UMI, sold medical equipment directly to Asghar Naderpour a/k/a Nader Naderpour ("Naderpour"), an Iranian affiliated with Taban Saar, which was exported through BVBA in Belgium, to Iran. Later, from August 2009 to April 2010, Naghibi, through UMI, continued to sell to Iran but changed the structure of the transaction to conceal the fact that UMI and Naghibi knew the ultimate destination of the items. Naghibi and UMI took steps to conceal the business relationship between Taban Saar and UMI by

⁵ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 CFR 734.3(c) (2008–2010).

⁶ 31 CFR Part 560 (2008–2010).

having Taban Saar use Coppers of BVBA and Raytec to place orders with and make payments to UMI. Specifically, Naghibi and UMI received order requests from Raytec and sold ultrasound equipment and accessories to Coppers in his capacity with BVBA or Raytec, which acted on behalf of Iranian purchaser Taban Saar. At times, Taban Saar used the same arrangement to pay UMI, and would send payment to BVBA or Raytec, which then transferred the funds provided by Taban Saar to UMI.

In so doing, Naghibi committed sixteen violations of Section 764.2(h) of the Regulations.

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

Whereas, I have approved of the terms of such Settlement Agreement; *It is therefore ordered:*

First, Naghibi shall be assessed a civil penalty in the amount of \$800,000. Naghibi shall pay the U.S. Department of Commerce in six installments of: \$7,000 not later than October 31, 2013; \$6,000 not later than January 31, 2014; \$6,000 not later than April 30, 2014; \$6,000 not later than July 31, 2014; \$6,000 not later than October 31, 2014; and \$6,000 not later than January 30, 2015. Payment shall be made in the manner specified in the attached instructions. If any of the six installment payments is not fully and timely made, any remaining scheduled installment payments and any suspended penalty may become due and owing immediately. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$763,000 shall be suspended for a period of two years from the date of the Order, and thereafter shall be waived, provided that during this two-year payment probationary period under the Order, Naghibi has committed no violation of the Act, or any regulation, order, license or authorization issued thereunder and has made full and timely payment of \$37,000 as set forth above.

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 dates specified herein, Naghibi 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 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 Naghibi.

Fourth, that for a period of six (6) years from the date of this Order, Naghibi, with a last known address of 9426 Blessing Drive, Pleasanton, California 94588, and when acting for or on his behalf, his successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as "Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

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.

Fifth, 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.

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

Seventh, Naghibi 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 Naghibi'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.

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

Ninth, that this Order shall be served on Naghibi, and shall be published in the **Federal Register**.

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

Issued this 26th day of September, 2013.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2013-24402 Filed 10-7-13; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Making Denial of Export Privileges Applicable to a Related Person

In the Matter of:

Chan Heep Loong, 95 Havelock Road, #14-583, Singapore, 160095 SG, San Jose, CA 95131; Respondent.

Tysonic Enterprises, 10 Anson Road, 15-14 International Plaza, Singapore, 079903 SG; Related Person.

Pursuant to Section 766.23 of the Export Administration Regulations ("EAR" or "Regulations"),¹ the Bureau of Industry and Security ("BIS"), U.S. Department of Commerce, through its Office of Export Enforcement ("OEE"), has requested that I make the denial order that issued against Respondent Chan Heep Loong ("Loong") on July 21, 2013, and was published in the **Federal Register** on July 29, 2013, and will remain in effect until July 29, 2023 (hereinafter the "Denial Order"), applicable to the following entity as a person related to Loong:

Tysonic Enterprises, 10 Anson Road, 15-14 International Plaza, Singapore, 079903 SG.

I. Background

A. The Denial Order

The Denial Order issued as part of the Final Decision and Order issued by the Under Secretary of Commerce for Industry and Security ("Under Secretary") concluding a formal BIS administrative proceeding against Loong. *In the Matter of Chan Heep Loong*, 10-BIS-0002 (Final Decision and Order dated July 21, 2013, and published in the **Federal Register** on July 29, 2013 (78 FR 45497)). The Under Secretary affirmed the findings and conclusions contained in the Recommended Decision and Order issued by an Administrative Law Judge ("ALJ"), in which the ALJ found Loong in default, found the facts to be as alleged in the Charging Letter issued against Loong, and concluded that

¹ The Regulations currently are codified at 15 CFR Parts 730-774 (2013). The Regulations issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act"). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of Notice of August 8, 2013 (78 FR 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 and Supp. IV 2010)).