

a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a 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 a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR 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 EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR 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 EAR, any other person, firm, corporation, or business organization or entity related to Muhammad Kamran Wali, Muhammad Ahsan Wali, Haji Wali Muhammad Sheikh, Ahmed Waheed, Ashraf Khan Muhammad, Business World (of Pakistan), Business World (of Canada), Business World (of Hong Kong), and Industria Hong Kong Ltd by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Section 766.24(e) of the EAR, Muhammad Kamran Wali, Muhammad Ahsan Wali, Haji Wali Muhammad Sheikh, Ahmed Waheed, Ashraf Khan Muhammad, Business World (of Pakistan), Business World (of Canada), Business World (of Hong Kong), and Industria Hong Kong Ltd may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Product Engineering may, at

any time, appeal its inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. Muhammad Kamran Wali, Muhammad Ahsan Wali, Haji Wali Muhammad Sheikh, Ahmed Waheed, Ashraf Khan Muhammad, Business World (of Pakistan), Business World (of Canada), Business World (of Hong Kong), and Industria Hong Kong Ltd may oppose a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be sent to Muhammad Kamran Wali, Muhammad Ahsan Wali, Haji Wali Muhammad Sheikh, Ahmed Waheed, Ashraf Khan Muhammad, Business World (of Pakistan), Business World (of Canada), Business World (of Hong Kong), Industria Hong Kong Ltd and Product Engineering, and shall be published in the **Federal Register**.

This Order is effective upon issuance and shall remain in effect for 180 days.

Dated: January 15, 2020.

**Douglas Hassebrock,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2020-01118 Filed 1-23-20; 8:45 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Case No. 18-BIS-0002]

#### Order Relating to Marjan Caby

*In the Matter of:* Marjan Caby, 8500 SW 109th Avenue, Apt. 211, Miami, FL 33173, et al., Respondents.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Marjan Caby, of Miami, Florida, that it has initiated an administrative proceeding against her pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),<sup>1</sup> through the issuance of

<sup>1</sup> The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. 4601-4623 (Supp. III 2015) (“the EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which was

a Charging Letter alleging that Marjan Caby, Ali Caby, Arash Caby, AW-Tronics LLC, (“AW-Tronics”) and Arrowtronic, LLC (“Arrowtronic”) (collectively, “Respondents”) violated the Regulations as follows:

#### Charge 1 15 CFR 764.2(d)—Conspiracy

Beginning as early as in or about September 2013, and continuing through in or about March 2014, Respondents conspired and acted in concert with others, known and unknown, to bring about one or more acts that constitute a violation of the Regulations. The purpose and object of the conspiracy was to unlawfully export goods from the United States through transshipment points to Syria, including to Syrian Arab Airlines (“Syrian Air”), the flag carrier airline of Syria and a Specially Designated Global Terrorist (“SDGT”), and in doing so evade the prohibitions and licensing requirements of the Regulations and avoid detection by U.S. law enforcement.

Pursuant to Section 746.9 of the Regulations, a license is required for the export or reexport to Syria of all items subject to the Regulations, except food and medicine classified as EAR99. Furthermore, pursuant to Section 744.12 of the Regulations, a license is required to export or reexport items subject to the Regulations to SDGTs. Syrian Air was designated as an SDGT on May 16, 2013 (see 78 FR 32304, May 29, 2013), under authority granted to the Department of the Treasury by Executive Order 13,224, and was at all times pertinent hereto (and remains) listed as an SDGT. At all pertinent times, AW-Tronics and Arrowtronic were active limited liability companies incorporated in the State of Florida. Documentary evidence and

extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. 1701, *et seq.* (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801-4852 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2018). The charged violation occurred in 2013-2014. The Regulations governing the violation at issue are found in the 2013-2014 versions of the Code of Federal Regulations (15 CFR parts 730-774 (2013-2014)). The 2019 Regulations set forth the procedures that apply to this matter.

email correspondence shows that AW-Tronics personnel represented to various transaction parties that AW-Tronics and Arrowtronic (collectively, "AW-Tronics/Arrowtronic") were the same company. Arash Caby was listed on Florida corporate records as a Managing Member of AW-Tronics at the time of the violations. From January 2014 until its most recent annual report in January 2017, Ali Caby was listed on Florida corporate records as the registered agent of AW-Tronics. AW-Tronics/Arrowtronic has maintained offices in Miami, Florida and Sofia, Bulgaria, as well as other locations.

As part of the conspiracy, the co-conspirators used electronic mail (email) and other forms of communication to communicate with each other between the United States, Bulgaria, United Arab Emirates (UAE), and Syria. Under their scheme, co-conspirators would purchase from U.S. suppliers or vendors items subject to the Regulations for export to Syrian Air in Syria, including aircraft parts and equipment, and would provide materially false or misleading documents and information to conceal the illegal exports. In furtherance of the conspiracy, they also would arrange for payment for the illegal exports to be made using third-party companies to transfer payments between the co-conspirators. Overall, between in or about September 2013 and in or about March 2014, Respondents engaged in multiple transactions with Syrian Air involving the export of aircraft parts and equipment subject to the Regulations from the Miami office of AW-Tronics/Arrowtronic to Syrian Air's transshipment point in Dubai, United Arab Emirates. These items were actually intended for, and some or all were ultimately delivered to, Syrian Air in Syria.

During the conspiracy, Ali Caby managed the Bulgaria office of AW-Tronics/Arrowtronic, while Arash Caby managed its Miami office, and Marjan Caby was its internal auditor. In furtherance of the conspiracy, each of these respondents exchanged numerous emails with other AW-Tronics/Arrowtronic employees authorizing or otherwise discussing the above-described exports to Syrian Air. These email communications included, for example, instructions that were designed to prevent U.S. law enforcement from detecting the unlawful exports to Syria and to allow them to continue by changing the routing of exports from AW-Tronics/Arrowtronic's Miami, Florida office. In March 2014, United States Customs and Border Protection seized a shipment of

micro switches that, according to Electronic Export Information (EEI) filed in the Automated Export System, was destined for Syrian Air in the UAE, when, in fact, the ultimate destination was Syria. On March 5, 2014, Marjan Caby sent an email to AW-Tronics/Arrowtronic logistics employees, copying Alex Caby, that explained, "We will . . . have packages stopped by the US Customs and Border Control [and] have a case file like this for the same client[.]" and provided instructions stating, "NOTHING WILL BE SHIPPED TO CLIENTS IN THE MIDDLE EAST FROM THE USA OFFICE. WE HAVE TO SEND TO BG [Bulgaria] THEN TO CLIENT." (Emphasis in original). "SYRIA" was specifically listed as one country for which Respondents would use Bulgaria as a transshipment point. (Same).

Caby, Arash Caby, a/k/a "Axel" Caby, Marjan Caby, AW-Tronics, LLC, and Arrowtronic, LLC violated Section 764.2(d) of the Regulations, for which they are jointly and severally liable.

*Whereas*, BIS and Marjan Caby 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;

*Whereas*, I have taken into consideration the plea agreement entered into by Marjan Caby with the U.S. Attorney's Office for the Southern District of Florida, and the sentence imposed against her following or upon the entry of her guilty plea and conviction ("the plea agreement and sentence"); and

*Whereas*, I have approved of the terms of the Settlement Agreement;

*It is therefore ordered:*

*First*, for the period of four (4) years from the date of this Order, Marjan Caby, with a last known address of 8500 SW 109th Avenue, Apt. 211, Miami, FL 33173, and when acting for or on her behalf, her successors, assigns, representatives, agents, or employees (hereinafter collectively referred to as the "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 to 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 engaging 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 from any other activity subject to the Regulations.

*Second*, 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*, any licenses issued under the Regulations in which Marjan Caby has an interest as of the date of this Order shall be revoked by BIS.

*Fourth*, 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.

*Fifth*, Marjan Caby shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or this Order.

*Sixth*, the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

*Seventh*, this Order shall be served on Marjan Caby and shall be published in the **Federal Register**.

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

Issued this 17th day of January, 2020.

**Douglas R. Hassebrock,**

*Acting Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2020-01177 Filed 1-23-20; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XR049]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction Activities for the Statter Harbor Improvement Project

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of an incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Juneau to incidentally harass, by Level A and Level B harassment only, marine mammals during construction activities associated with the Statter Harbor improvement project in Auke Bay, Alaska.

**DATES:** This authorization is effective from October 1, 2020 to September 30, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sara Young, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under->

*marine-mammal-protection-act*. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

##### Summary of Request

On April 15, 2019, NMFS received a request from the City of Juneau for an IHA to take marine mammals incidental to construction activities at Statter Harbor in Auke Bay, Alaska. The application was deemed adequate and complete on September 26, 2019. The City of Juneau’s request is for take of a small number of eight species of marine mammals, by Level B harassment and Level A harassment. Neither the City of Juneau nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to the City of Juneau for related work (84 FR 11066; March 25, 2019), which covers the first phase of activities (dredging, blasting, pile removal) and is

effective from October 1, 2019 to September 30, 2020. The City of Juneau has not yet conducted any work under the previous IHA and therefore no monitoring results are available at the time of writing.

This IHA covers one year of a larger project for which the City of Juneau obtained one prior IHA. The larger multi-year project involves several harbor improvement projects including dismantling and demolition of existing docks, construction of a mechanically stabilized earth wall, and installation of concrete floats.

##### Description of Specified Activity

###### Overview

The harbor improvements described in the application include installation of timber floats supported by 20 16-inch steel pipe piles, installation of a gangway, replacement of piles supporting a transient float, and removal of temporary fill that will be placed under the first IHA and construction of the permanent mechanically stabilized earth (MSE) wall.

###### Dates and Duration

The activities are expected to occur between October 1, 2020 and May 1, 2021 but the IHA will be valid for one year to account for any delays in the construction timeline. In winter months, shorter 8-hour to 10-hour workdays in available daylight are anticipated. To be conservative, 12-hour work days were assumed for the purposes of analysis in this notice.

###### Specific Geographic Region

The activities will occur at Statter Harbor in Auke Bay, Alaska which is in the southeast portion of the state. See Figure 3 in the application for detailed maps of the project area. Statter Harbor is located at the most northeasterly point of Auke Bay.

###### Detailed Description of Specific Activity

New infrastructure to be installed includes 9,136 square feet (848.8 square meters) of timber floats supported by twenty (20) 16-inch (4.1-decimeter) diameter steel pipe piles, an 10-foot by 100-foot gangway (3-meters by 30.5-meters), removal of the temporary surcharge fill and construction of the permanent MSE wall. In addition to the new infrastructure, three existing piles will be repaired. The previously installed temporary piles will be removed with a crane or vibratory hammer and reinstalled with rock sockets to provide sufficient moorage capacity for the float.