

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

In the Matter of:

Falcon Instrumentation and Machinery FZE

No. 3, Rahim Salehi Alley, Akbari St.
Roomi Bridge, Dr. Shariati Ave.
P.O. Box 3379
Tehran, Iran 3379/19395

Office No. LB16401
P.O. Box 61432
Jebel Ali
Dubai, United Arab Emirates

Respondent

ORDER RELATING TO
FALCON INSTRUMENTATION AND MACHINERY FZE

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified Falcon Instrumentation and Machinery FZE , of Tehran, Iran and Dubai, United Arab Emirates, formerly known as FIMCO FZE (hereinafter “FIMCO”),¹ of its intention to initiate an administrative proceeding against FIMCO pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),² and Section 13(c) of the Export

¹ Respondent has provided information indicating that FIMCO FZE changed its name to Falcon Instrumentation and Machinery FZE in the fall of 2012.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The charged violation occurred in 2009-2012. The Regulations governing the violation at issue are found in the 2009-2015 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2015 Regulations set forth the procedures that apply to this matter.

Administration Act of 1979, as amended (the “Act”),³ through the issuance of a Proposed Charging Letter to FIMCO that alleges that FIMCO committed one violation of the Regulations. Specifically, the charge is:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy

Beginning in at least June 2009, and continuing through about July 2012, FIMCO 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 a bar peeling machine and related parts from the United States through the United Arab Emirates (“UAE”) to Iran without the required U.S. Government authorization. The items were to be manufactured and exported for FIMCO by Hetran, Inc. (“Hetran”), a U.S. company located in Orwigsburg, Pennsylvania. The items, used in high-grade metal processing and finishing, were designated as EAR99⁴ under the Regulations and valued at approximately \$895,544. The items were also subject to the Iranian Transactions Regulations (“ITR”) administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”).⁵ 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. Under Section 560.204 of the ITR, the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited at all times pertinent hereto, including the exportation, reexportation, sale or supply from the United States to a third country, such as the UAE, undertaken with knowledge that the items were intended for supply, transshipment or reexportation, directly or indirectly, to Iran. No OFAC authorization was sought or obtained for the transaction described herein.

³ 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 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

⁴ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2009-12).

⁵ 31 C.F.R. part 560 (2009-12). Subsequent to the violation charged herein, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the Iranian Transactions and Sanctions Regulations (“ITSR”), amended the renamed ITSR in part, and reissued them in their entirety. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). 31 C.F.R. part 560 remains the same in pertinent part.

The conspiracy focused on a scheme in which FIMCO in Iran would purchase the bar peeling machine and related parts from Hetran for export from the United States, while circumventing the long-standing and widely-known U.S. embargo against Iran, including by falsely identifying a company in Dubai, UAE, as the items' end user. The conspiracy was formed during meetings held in or about June 2009, including a meeting held in Dubai on June 13, 2009, in which two FIMCO officials participated in person.⁶ At the June 13, 2009 meeting, the FIMCO officials expressed FIMCO's interest in transshipping the items to be manufactured by Hetran from Dubai to Iran following their shipment from the United States.

FIMCO made partial payment in the amount of \$337,500 to Hetran for the manufacture of the machine and related parts. While the machine, which weighed more than 50,000 pounds, was being built, FIMCO and its co-conspirators continued to discuss the design and delivery of the machine and related parts, as well as additional payments to be made by FIMCO. In or around June 2011, FIMCO began focusing on detailed plans concerning how it could receive the machine and related parts in Dubai, UAE, and move them to Iran while circumventing the U.S. embargo and avoiding detection. In communications during that time period and subsequently in 2011, FIMCO officials discussed potentially shipping the machine and related parts to India as an intermediary transshipment point en route to Dubai, UAE, and ultimately Iran. In India, Hetran India would replace the items' U.S.-origin documentation with false Indian-origin documentation. FIMCO officials also discussed the preparation of a letter of credit that would falsely list the items' origin as Indian and a freight forwarder cargo receipt that would falsely list their ultimate destination as Dubai. During approximately the same time period, FIMCO began using, also in furtherance of the conspiracy, the company name "Crescent International Trade and Services FZE" and a Dubai, UAE address, and certain FIMCO employees began using email addresses that included "crescentfze.com" in correspondence with Hetran regarding the disposition of the machine.⁷

A purchase order for the machine and related parts dated July 31, 2011 issued under the name of Crescent International Trade and Services FZE in Dubai, UAE. In connection with this purchase order, Hetran informed a co-conspirator in India in September 2011 that Hetran could not accept the order directly and that the contract should be executed by Hetran India. FIMCO and its co-conspirators subsequently continued their efforts to

⁶ One of the FIMCO officials was Khosrow Kasraei, FIMCO's Spare Part Manager. Kasraei was added to BIS's Entity List on August 1, 2014, as a related person to FIMCO, which was added to the Entity List on the same day. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014). The listing for FIMCO (currently known as Falcon Instrumentation and Machinery FZE) includes its Tehran, Iran address and a Dubai, UAE address.

⁷ Crescent International Trade and Services FZE was added to the Entity List on August 1, 2014. *Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014).

circumvent the Iran embargo and avoid detection, including with regard to shipping logistics and additional payments to be made by FIMCO to Hetran.

Finally, on or about June 17, 2012, Hetran attempted to export the bar peeling machine and related parts from the United States to Iran through the UAE without the required U.S. Government authorization, which was never sought or obtained. The Shipper's Export Declaration filed by Hetran in connection with this attempted export to Iran falsely identified the UAE as the ultimate destination and listed Crescent International Trade and Services FZE with a Dubai, UAE address as the ultimate consignee.

On or about June 18, 2012, BIS's Office of Export Enforcement requested documentation from Hetran regarding the installation site of the bar peeling machine. On June 21, 2012, FIMCO's Financial Manager⁸ informed FIMCO's Spare Part Manager that in connection with BIS's request, Hetran India had asked for information regarding the location of the machine's purported installation in the UAE. The two FIMCO officials discussed the option of FIMCO obtaining a fraudulent purchase order from an individual in Turkey that would be backdated to appear as though it had been issued prior to the July 31, 2011 purchase order issued to Hetran. Ultimately, however, FIMCO and its other co-conspirators proceeded with their plan of falsely identifying a purported end user in the UAE. On June 22, 2012, when BIS Office of Export Enforcement special agents visited Hetran's offices to investigate this shipment, which was occurring by sea, they were falsely told that the machine was destined for installation in the UAE.

Despite knowing of BIS's investigation into this transaction, FIMCO nonetheless continued, along with its co-conspirators, to act in furtherance of the conspiracy. FIMCO met with Hetran in Dubai, UAE on or about July 1, 2012, including to arrange for finalizing full payment for the machine, which remained en route to the UAE, and, if necessary, shipping the machine to Hetran India for transshipment via India to Iran. However, on or about July 3, 2012, the BIS Office of Export Enforcement thwarted the attempted unlawful export by issuing a re-delivery order for the machine.

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

WHEREAS, BIS and FIMCO 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;

⁸ Mujahid Ali (a.k.a. Mujahid Ali Mahmood Ali), FIMCO's Financial Manager, was added to the Entity List on August 1, 2014, as a related person to FIMCO. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014).

IT IS THEREFORE ORDERED:

FIRST, FIMCO shall be assessed a civil penalty in the amount of \$837,500. The payment of \$587,500 shall be made to the U.S. Department of Commerce within 30 days of the date of this Order. Payment of the remaining \$250,000 shall be suspended for a period of two years from the date of this Order, and thereafter shall be waived, provided that during this two-year payment probationary period under this Order, FIMCO has made full and timely payment of \$587,500 as set forth above and has complied with the terms of the plea agreement it has entered into with the U.S. Attorney's Office for the Middle District of Pennsylvania ("plea agreement") and any sentence imposed upon or following its plea and conviction, and provided that it has not committed a violation of the Act, or any regulation, order, license or authorization issued thereunder. If FIMCO does not make full and timely payment of the \$587,500, the suspended penalty of \$250,000 may become due and owing immediately.

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, FIMCO 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 and compliance with the plea agreement and any sentence imposed upon or following FIMCO's plea and conviction are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted,

to FIMCO. Accordingly, if FIMCO should fail to pay the civil penalty in a full and timely manner or fail to comply with the plea agreement and any sentence imposed upon or following its plea and conviction, the undersigned may issue an order denying all of FIMCO's export privileges under the Regulations for a period of five years from the date of failure to make such payment or failure to comply with the plea agreement and any sentence imposed upon or following its plea and conviction.

FOURTH, that for a period of two (2) years from the date of this Order, FIMCO, with last known addresses of No. 3, Rahim Salehi Alley, Akbari St. Roomi Bridge, Dr. Shariati Ave. P.O. Box 3379, Tehran, Iran 3379/19395, and Office No. LB16401, P.O. Box 61432, Jebel Ali, Dubai, United Arab Emirates, and when acting for or on its behalf, its 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 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.

SEVENTH, that, as authorized by Section 766.18(c) of the Regulations, the two-year denial period set forth in Paragraphs Fourth and Fifth shall be suspended for two years under this Order, and shall thereafter be waived, provided that FIMCO has committed no other violation of the Act or any regulation, order, license or authorization issued thereunder. If FIMCO commits another violation of the Act or any regulation, order, license or authorization issued thereunder during the two-year probationary period under this Order, the suspension may be modified or revoked by BIS and a denial order including a two-year denial period activated against FIMCO.

EIGHTH, 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.



David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 27th day of July, 2015.

UNITED STATES DEPARTMENT OF COMMERCE
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Jebel Ali
Dubai, United Arab Emirates

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Falcon Instrumentation and Machinery FZE, of Tehran, Iran and Dubai, United Arab Emirates, formerly known as FIMCO FZE (hereinafter “FIMCO”),¹ and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively, the “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (the “Regulations”),² issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).³

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

WHEREAS, BIS has issued a Proposed Charging Letter to FIMCO that alleges that FIMCO committed one violation of the Regulations, specifically:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy

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A purchase order for the machine and related parts dated July 31, 2011 issued under the name of Crescent International Trade and Services FZE in Dubai, UAE. In connection with this purchase order, Hetran informed a co-conspirator in India in September 2011 that Hetran could not accept the order directly and that the contract should be executed by Hetran India. FIMCO and its co-conspirators subsequently continued their efforts to circumvent the Iran embargo and avoid detection, including with regard to shipping logistics and additional payments to be made by FIMCO to Hetran.

⁶ One of the FIMCO officials was Khosrow Kasraei, FIMCO's Spare Part Manager. Kasraei was added to BIS's Entity List on August 1, 2014, as a related person to FIMCO, which was added to the Entity List on the same day. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014). The listing for FIMCO (currently known as Falcon Instrumentation and Machinery FZE) includes its Tehran, Iran address and a Dubai, UAE address.

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On or about June 18, 2012, BIS's Office of Export Enforcement requested documentation from Hetran regarding the installation site of the bar peeling machine. On June 21, 2012, FIMCO's Financial Manager⁸ informed FIMCO's Spare Part Manager that in connection with BIS's request, Hetran India had asked for information regarding the location of the machine's purported installation in the UAE. The two FIMCO officials discussed the option of FIMCO obtaining a fraudulent purchase order from an individual in Turkey that would be backdated to appear as though it had been issued prior to the July 31, 2011 purchase order issued to Hetran. Ultimately, however, FIMCO and its other co-conspirators proceeded with their plan of falsely identifying a purported end user in the UAE. On June 22, 2012, when BIS Office of Export Enforcement special agents visited Hetran's offices to investigate this shipment, which was occurring by sea, they were falsely told that the machine was destined for installation in the UAE.

Despite knowing of BIS's investigation into this transaction, FIMCO nonetheless continued, along with its co-conspirators, to act in furtherance of the conspiracy. FIMCO met with Hetran in Dubai, UAE on or about July 1, 2012, including to arrange for finalizing full payment for the machine, which remained en route to the UAE, and, if necessary, shipping the machine to Hetran India for transshipment via India to Iran. However, on or about July 3, 2012, the BIS Office of Export Enforcement thwarted the attempted unlawful export by issuing a re-delivery order for the machine.

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

WHEREAS, FIMCO has reviewed the Proposed Charging Letter and is aware of the allegations made against it and the administrative sanctions that could be imposed against it if the allegations are found to be true;

⁸ Mujahid Ali (a.k.a. Mujahid Ali Mahmood Ali), FIMCO's Financial Manager, was added to the Entity List on August 1, 2014, as a related person to FIMCO. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014).

WHEREAS, FIMCO fully understands the terms of this Agreement and the Order (“Order”) that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, FIMCO enters into this Agreement voluntarily and with full knowledge of its rights, after having consulted with counsel;

WHEREAS, the Parties enter into this Agreement having taken into consideration a plea agreement that will be entered into between FIMCO and the U.S. Attorney’s Office for the Middle District of Pennsylvania (“plea agreement”);

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

WHEREAS, FIMCO agrees to be bound by the Order, if issued;

NOW THEREFORE, the Parties hereby agree, for purposes of this Settlement Agreement, as follows:

1. BIS has jurisdiction over FIMCO, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

2. FIMCO admits to the allegations contained in the Proposed Charging Letter.

3. The following sanctions shall be imposed against FIMCO in complete settlement of the alleged violation of the Regulations relating to the transactions specifically detailed in the Proposed Charging Letter:

a. FIMCO shall be assessed a civil penalty in the amount of \$837,500. The payment of \$587,500 shall be made to the U.S. Department of Commerce within 30 days of the date of the Order. Payment shall be made in the

manner specified in the attached instructions. Payment of the remaining \$250,000 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, FIMCO complies with the terms of its plea agreement and any sentence imposed upon or following its plea and conviction, does not commit a violation of the Act, or any regulation, order, license or authorization issued thereunder, and has made full and timely payment of \$587,500 as set forth above. Additionally, if FIMCO does not make full and timely payment of the \$587,500, the suspended penalty of \$250,000 may become due and owing immediately.

b. The full and timely payment of the civil penalty agreed to in Paragraph 3.a, and compliance with the plea agreement and any sentence imposed upon or following FIMCO's plea and conviction, are hereby made conditions to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to FIMCO. Failure by FIMCO to make full and timely payment of the civil penalty or comply with the plea agreement and any sentence imposed upon or following its plea and conviction may result in the denial of all of FIMCO's export privileges under the Regulations for five years from the date of the failure to make such payment or comply with the plea agreement and any sentence imposed upon or following FIMCO's plea and conviction.

c. For a period of two (2) years from the date of the Order, Falcon

Instrumentation and Machinery FZE, formerly known as FIMCO FZE, with last known addresses of No. 3, Rahim Salehi Alley, Akbari St., Roomi Bridge, Dr. Shariati Ave., P.O. Box 3379, Tehran, Iran 3379/19395, and Office No. LB16401, P.O. Box 61432, Jebel Ali, Dubai, United Arab Emirates, and when acting for or on its behalf, its 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:

- 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.
- d. BIS agrees that, as authorized by Section 766.18(c) of the Regulations, the two-year denial period set forth in Paragraph 3.c shall be

suspended during a probationary period of two years under the Order, and shall thereafter be waived, provided that FIMCO does not commit another violation of the Act or any regulation, order, license or authorization issued thereunder during the two-year probationary period. If FIMCO commits another violation of the Act or any regulation, order, license or authorization issued thereunder during the two-year probationary period, the suspension may be modified or revoked by BIS and a denial order including a two-year denial period activated against FIMCO.

4. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, FIMCO 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 issued), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if issued; and (c) seek judicial review or otherwise contest the validity of this Agreement or the Order, if issued. FIMCO also waives and will not assert any Statute of Limitations defense, and the Statute of Limitations will be tolled, in connection with any violation of the Act or the Regulations arising out of the transactions identified in the Proposed Charging Letter or in connection with collection of the civil penalty or enforcement of this Agreement and the Order, if issued, from the date of the Order until FIMCO pays in full the civil penalty agreed to in Paragraph 3.a of this Agreement and complies with the terms of the plea agreement and any sentence imposed on or following its plea and conviction.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 3.a. and compliance with the plea agreement and any sentence

imposed on or following its plea and conviction, BIS will not initiate any further administrative proceeding against FIMCO in connection with any violation of the Act or the Regulations arising out of the transactions specifically detailed in the Proposed Charging Letter.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not approved 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.

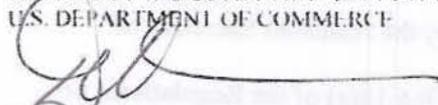
7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if issued; nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department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

8. This Agreement shall become binding on the Parties only if the Assistant Secretary of Commerce for Export Enforcement approves it by issuing 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. BIS will make the Proposed Charging Letter, this Agreement, and the Order, if issued, available to the public.

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

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


Douglas R. Hassebrock
Director of Export Enforcement

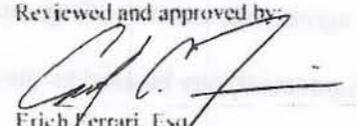
FALCON INSTRUMENTATION AND
MACHINERY FZE


Khosrow Ghaisarifar
Manager

Date: 4 Jun 15

Date: 3/1/15

Reviewed and approved by:


Erich Ferrari, Esq.
Ferrari & Associates, P.C.
Counsel for Falcon Instrumentation and
Machinery FZE

Date: 6/1/15

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Falcon Instrumentation and Machinery FZE

No. 3, Rahim Salehi Alley, Akbari St.
Roomi Bridge, Dr. Shariati Ave.
P.O. Box 3379
Tehran, Iran 3379/19395

Office No. LB16401
P.O. Box 61432
Jebel Ali
Dubai, United Arab Emirates

Attention: Khosrow Ghaissarifar
Manager

Dear Mr. Ghaissarifar:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that Falcon Instrumentation and Machinery FZE, of Tehran, Iran and Dubai, United Arab Emirates, formerly known as FIMCO FZE (hereinafter “FIMCO”),¹ has violated the Export Administration Regulations (the “Regulations”),² which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).³ Specifically, BIS alleges that FIMCO committed the following violation:

Charge 1 15 C.F.R. § 764.2(d) – Conspiracy

¹ Respondent has provided information indicating that FIMCO FZE changed its name to Falcon Instrumentation and Machinery FZE in the fall of 2012.

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. parts 730-774 (2015). The violation alleged occurred in 2009-12. The Regulations governing the violation at issue are found in the 2009-2012 versions of the Code of Federal Regulations, 15 C.F.R. parts 730-774 (2009-12). The 2015 Regulations govern the procedural aspects of this case.

³ 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 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46,959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

Beginning in at least June 2009, and continuing through about July 2012, FIMCO⁴ 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 a bar peeling machine and related parts from the United States through the United Arab Emirates (“UAE”) to Iran without the required U.S. Government authorization. The items were to be manufactured and exported for FIMCO by Hetran, Inc. (“Hetran”), a U.S. company located in Orwigsburg, Pennsylvania. The items, used in high-grade metal processing and finishing, were designated as EAR99⁵ under the Regulations and valued at approximately \$895,544. The items were also subject to the Iranian Transactions Regulations (“ITR”) administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”).⁶ 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. Under Section 560.204 of the ITR, the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited at all times pertinent hereto, including the exportation, reexportation, sale or supply from the United States to a third country, such as the UAE, undertaken with knowledge that the items were intended for supply, transshipment or reexportation, directly or indirectly, to Iran. No OFAC authorization was sought or obtained for the transaction described herein.

The conspiracy focused on a scheme in which FIMCO in Iran would purchase the bar peeling machine and related parts from Hetran for export from the United States, while circumventing the long-standing and widely-known U.S. embargo against Iran, including by falsely identifying a company in Dubai, UAE, as the items’ end user. The conspiracy was formed during meetings held in or about June 2009, including a meeting held in Dubai on June 13, 2009, in which two FIMCO officials participated in person.⁷ At the

⁴ The charge refers to the company as FIMCO, as it did business under this name during the pertinent time period of June 2009-July 2012.

⁵ EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c) (2009-12).

⁶ 31 C.F.R. part 560 (2009-12). Subsequent to the violation charged herein, OFAC changed the heading of 31 C.F.R. part 560 from the Iranian Transactions Regulations to the Iranian Transactions and Sanctions Regulations (“ITSR”), amended the renamed ITSR in part, and reissued them in their entirety. *See* 77 Fed. Reg. 64,664 (Oct. 22, 2012). 31 C.F.R. part 560 remains the same in pertinent part.

⁷ One of the FIMCO officials was Khosrow Kasraei, FIMCO’s Spare Part Manager. Kasraei was added to BIS’s Entity List on August 1, 2014, as a related person to FIMCO, which was added to the Entity List on the same day. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014). The listing for FIMCO (currently known as Falcon Instrumentation and Machinery FZE) includes the company’s Tehran, Iran address and a Dubai, UAE address.

June 13, 2009 meeting, the FIMCO officials expressed FIMCO's interest in transshipping the items to be manufactured by Hetran from Dubai to Iran following their shipment from the United States.

FIMCO made partial payment in the amount of \$337,500 to Hetran for the manufacture of the machine and related parts. While the machine, which weighed more than 50,000 pounds, was being built, FIMCO and its co-conspirators continued to discuss the design and delivery of the machine and related parts, as well as additional payments to be made by FIMCO. In or around June 2011, FIMCO began focusing on detailed plans concerning how it could receive the machine and related parts in Dubai, UAE, and move them to Iran while circumventing the U.S. embargo and avoiding detection. In communications during that time period and subsequently in 2011, FIMCO officials discussed potentially shipping the machine and related parts to India as an intermediary transshipment point en route to Dubai, UAE, and ultimately Iran. In India, Hetran India would replace the items' U.S.-origin documentation with false Indian-origin documentation. FIMCO officials also discussed the preparation of a letter of credit that would falsely list the items' origin as Indian and a freight forwarder cargo receipt that would falsely list their ultimate destination as Dubai. During approximately the same time period, FIMCO began using, also in furtherance of the conspiracy, the company name "Crescent International Trade and Services FZE" and a Dubai, UAE address, and certain FIMCO employees began using email addresses that included "crescentfze.com" in correspondence with Hetran regarding the disposition of the machine.⁸

A purchase order for the machine and related parts dated July 31, 2011 issued under the name of Crescent International Trade and Services FZE in Dubai, UAE. In connection with this purchase order, Hetran informed a co-conspirator in India in September 2011 that Hetran could not accept the order directly and that the contract should be executed by Hetran India. FIMCO and its co-conspirators subsequently continued their efforts to circumvent the Iran embargo and avoid detection, including with regard to shipping logistics and additional payments to be made by FIMCO to Hetran.

Finally, on or about June 17, 2012, Hetran attempted to export the bar peeling machine and related parts from the United States to Iran through the UAE without the required U.S. Government authorization, which was never sought or obtained. The Shipper's Export Declaration filed by Hetran in connection with this attempted export to Iran falsely identified the UAE as the ultimate destination and listed Crescent International Trade and Services FZE with a Dubai, UAE address as the ultimate consignee.

⁸ Crescent International Trade and Services FZE was added to the Entity List on August 1, 2014. *Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014).

On or about June 18, 2012, BIS's Office of Export Enforcement requested documentation from Hetran regarding the installation site of the bar peeling machine. On June 21, 2012, FIMCO's Financial Manager⁹ informed FIMCO's Spare Part Manager that in connection with BIS's request, Hetran India had asked for information regarding the location of the machine's purported installation in the UAE. The two FIMCO officials discussed the option of FIMCO obtaining a fraudulent purchase order from an individual in Turkey that would be backdated to appear as though it had been issued prior to the July 31, 2011 purchase order issued to Hetran. Ultimately, however, FIMCO and its other co-conspirators proceeded with their plan of falsely identifying a purported end user in the UAE. On June 22, 2012, when BIS Office of Export Enforcement special agents visited Hetran's offices to investigate this shipment, which was occurring by sea, they were falsely told that the machine was destined for installation in the UAE.

Despite knowing of BIS's investigation into this transaction, FIMCO nonetheless continued, along with its co-conspirators, to act in furtherance of the conspiracy. FIMCO met with Hetran in Dubai, UAE on or about July 1, 2012, including to arrange for finalizing full payment for the machine, which remained en route to the UAE, and, if necessary, shipping the machine to Hetran India for transshipment via India to Iran. However, on or about July 3, 2012, the BIS Office of Export Enforcement thwarted the attempted unlawful export by issuing a re-delivery order for the machine.

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

* * * * *

Accordingly, FIMCO is hereby notified that an administrative proceeding is instituted against it 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, but not limited to, any or all of the following:

- The maximum civil penalty allowed by law of up to the greater of \$250,000 per violation, or twice the value of the transaction that is the basis of the violation;¹⁰
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

⁹ Mujahid Ali (a.k.a. Mujahid Ali Mahmood Ali), FIMCO's Financial Manager, was added to the Entity List on August 1, 2014, as a related person to FIMCO. *See Addition of Certain Persons to the Entity List*, 79 Fed. Reg. 44,687 (Aug. 1, 2014).

¹⁰ *See International Emergency Economic Powers Enhancement Act of 2007*, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

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

FIMCO is further notified that it is entitled to an agency hearing on the record if it files a written demand for one with its answer. *See* 15 C.F.R. § 766.6. FIMCO is also entitled to be 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 FIMCO have a proposal to settle this case, FIMCO should transmit it to 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, FIMCO'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 FIMCO's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Parvin R. Huda
Room H-3839
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

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

Sincerely,

Douglas R. Hassebrock
Director
Office of Export Enforcement