

*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 Dolphin 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*, 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.

*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 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.

Entered this 2nd day of March, 2006.

**Darryl W. Jackson,**

*Assistant Secretary of Commerce for Export Enforcement.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Erik Kyriacou; In the Matter of: Erik Kyriacou, 50 Park Drive, Rocky Point, NY 11778

#### Order Denying Export Privileges

##### *A. Denial of Export Privileges of Erik Kyriacou*

On July 19, 2004, in the U.S. District Court in the Eastern District of Pennsylvania, Erik Kyriacou ("Kyriacou") pleaded guilty to four charges, including two violations of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)) ("IEEPA"). As to the IEEPA counts, Kyriacou pleaded guilty of knowingly and willfully having exported and caused to be exported from the United States to the Islamic Republic of Iran, four electrophysics astroscope lenses, Model 9300XL-3N, which were Commerce Control List items, without obtaining the required licenses from the Department of Commerce. These items were controlled for national security reasons for export to Iran. Kyriacou was sentenced to five

years probation with the first four months to be spent in home confinement.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. §§ 2401-2420 (2000)) ("Act")<sup>1</sup> and Section 766.25 of the Export Administration Regulations<sup>2</sup> ("Regulations") provide, in pertinent part, that "[t]he Director of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny export privileges of any person who has been convicted of a violation of \* \* \* IEEPA," for a period not to exceed 10 years from the date of conviction. 15 CFR 766.25(a) and (d). In addition, § 750.8 of the Regulations states that BIS's Office of Exporter Services may revoke any BIS licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Kyriacou's indictment for violating the IEEPA, and have provided notice and an opportunity for Kyriacou to make a written submission to the Bureau of Industry and Security as provided in § 766.25 of the Regulations. Having received no submission from Kyriacou, I, following consultations with the Export Enforcement, including the Director, Office of Export Enforcement, have decided to deny Kyriacou's export privileges under the Regulations for a period of 10 years from the date of Kyriacou's conviction.

*Accordingly, it is hereby ordered:*

I. Until July 19, 2015, Erik Kyriacou, 50 Park Drive, Rocky Point, New York 11778, when acting in behalf of Kyriacou, all of his assigns or successors, and when acting for or on behalf of Kyriacou, his representatives, agents or employees, (collectively referred to hereinafter 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 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, on 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 Regulation, or in any other activity subject to the Regulations; or

C. Benefiting 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.

II. 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.

<sup>1</sup> 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 CFR, 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 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273, August 5, 2005), has continued the Regulations in effect under the IEEPA.

<sup>2</sup> The Regulations are currently codified at 15 CFR parts 730-774 (2005).

III. After notice and opportunity for comment as provided in § 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Erik Kyriacou 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 this Order.

IV. 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.

V. This order is effective immediately and shall remain in effect until July 19, 2015.

VI. In accordance with Part 756 of the Regulations, Kyriacou may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VII. A copy of this Order shall be delivered to Kyriacou. This Order shall be published in the **Federal Register**.

Dated: March 1, 2006.

**Eileen M. Albanese,**

*Director, Office of Exporter Services.*

[FR Doc. 06-2237 Filed 3-8-06; 8:45 am]

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### **Action Affecting Export Privileges; Orcas International, Inc.; In the Matter of Orcas International, Inc., 230 U.S. Highway 206, Suite 3, Flanders, NJ 07836; Respondent**

#### **Order**

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Orcas International, Inc. (hereinafter referred to as "Orcas") of its intention to initiate an administrative proceeding against Orcas pursuant to § 766.3 of the Export Administration Regulations (currently codified at 15 CFR parts 730-774 (2005)) ("Regulations")<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. § 2401

2420 (2000)) ("Act"),<sup>2</sup> by issuing a proposed charging letter to Orcas that alleged that Orcas committed two violations of the Regulations.

*Specifically, the charges are:*

1. One Violation of 15 CFR 764.2(d)—*Conspiracy to Export Toxins to North Korea Without the Required License:* Beginning in late 2000 and continuing into September 2002, Orcas conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. The goal of the conspiracy was to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphylococcal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number ("ECCN") 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. In furtherance of the conspiracy, Orcas acquired the toxins from a U.S. company and then attempted to export them from the United States to a co-conspirator in the Netherlands who was to complete the export to North Korea. Contrary to Section 742.2 of the Regulations, no Department of Commerce license was obtained for the export of toxins from the United States to North Korea.

2. One Violation of 15 CFR 764.2(b)—*Attempting to Export Toxins Without the Required License:* On or about September 12, 2002, Orcas attempted to export toxins, Aflatoxin (M1, P1, Q1) and Staphylococcal Enterotoxin (A and B), items subject to the Regulations and classified under ECCN 1C351, from the United States to North Korea without obtaining an export license from the Department of Commerce as required by Section 742.2 of the Regulations.

*Whereas*, BIS and Orcas 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 the terms of such Settlement Agreement;

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which has been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 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, 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 notice, the most recent being that of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under the IEEPA.

*It is therefore ordered:*

*First*, that a civil penalty of \$19,800 is assessed against Orcas, which shall be paid to the U.S. Department of Commerce no later than 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

*Second*, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Orcas will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

*Third*, that, the timely payment of the civil penalty agreed to in paragraph 2.a 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 Orcas. Failure to make timely payment of the civil penalty set forth above shall result in the denial of all Orcas's export privileges under the Regulations for a period of one year from the date of imposition of the penalty. The payment of the civil penalty is guaranteed by Mr. Graneshawar K. Rao (hereinafter referred to as "K.G. Rao"), in his individual capacity, and K.G. Rao and Orcas, are jointly and severally liable for the payment of the penalty.

*Fourth*, that for a period of four years from the date of entry of this Order, Orcas, its successors or assigns, and when, acting for or on behalf of Orcas, its officers, representatives, agents, 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 specified on the Commerce Control List ("Control List")<sup>3</sup> or in any other activity that is subject to the Regulations involving an item that is specified on the Control List, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document in connection with an item that is specified on the Control List;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering,

<sup>3</sup> The Commerce Control List is set forth in Supp. 1 to part 774 of the Regulations "EAR99" items are subject to the Regulations but not "specified" on the Control List. See 15 CFR 774.1.

<sup>1</sup> The violations charged occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR parts 730-774 (2000-2002)). The 2005 Regulations establish the procedures that apply to this matter.