

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]

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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)).

Loong had committed the three (3) violations alleged in the Charging Letter.

BIS served the Charging Letter on Loong at his last known address in Singapore. As described in the Final Decision and Order issued by the Under Secretary, BIS engaged in communications with Loong through his representative, while never receiving an answer to the charges. Thus, BIS moved for a default order against Loong.

As alleged in the Charging Letter, determined by the ALJ, and affirmed by the Under Secretary, Loong engaged in the following conduct in violation of the Regulations:

Charge 1 15 CFR 764.2(b)—Causing an Export to Iran Without Authorization

From on or about February 14, 2005, through on or about February 24, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of GPS engines, items subject to the Regulations and the Iranian Transaction Regulations² (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic Enterprises (“Tysonic”), of Singapore, ordered and/or bought the GPS engines, items that are classified under Export Control Classification Number (“ECCN”) 7A994 and are controlled for anti-terrorism reasons, from a U.S. company without informing that company of the intended final destination of the items. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from either BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 7A994. Neither BIS nor OFAC authorized the export of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 2 15 CFR 764.2(b)—Causing an Export to Iran Without Authorization

From on or about April 22, 2005, through on or about May 12, 2005, Loong caused the doing of an act prohibited by the Regulations. Specifically, Loong caused the export from the United States to Iran, via transshipment through Singapore, of a peak power meter, an item subject to the Regulations and the Iranian Transaction Regulations (“ITR”) of the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), without

the required U.S. Government authorization. Specifically, Loong, in his capacity as Owner/Operator of Tysonic, ordered and/or bought the peak power meter, an item classified under ECCN 3A992 and is controlled for anti-terrorism reasons, from a U.S. company, from a U.S. company. Loong then instructed the U.S. company to ship the items from the United States to Tysonic in Singapore, and, following arrival in Singapore, the items were then forwarded to Iran. Pursuant to Section 734.2(b)(6) of the Regulations, the export of an item from the United States to a second country intended for transshipment to a third country is deemed to be an export to that third country. Under Section 746.7 of the Regulations, a license from either BIS or OFAC is required to export to Iran items subject to control for anti-terrorism reasons, including items listed under ECCN 3A992. Neither BIS nor OFAC authorized the export of the items described above to Iran. In engaging in the activity described herein, Loong committed one violation of Section 764.2(b) of the Regulations.

Charge 3 15 CFR § 764.2(k)—Violation of Terms of an Order Temporarily Denying Export Privileges

On or about August 29, 2006, Loong engaged in conduct prohibited by an Order issued by the Assistant Secretary of Commerce for Export Enforcement on April 12, 2006 pursuant to Section 766.24 of the Regulations, and effective upon publication in the **Federal Register** on April 19, 2006, temporarily denying the export privileges of Loong and Tysonic for 180 days (71 FR 20074, April 19, 2006) (the “TDO”). Under the terms of the TDO, Loong was prohibited from “directly or indirectly, participat[ing] in any way in any transaction involving any [item] exported or to be exported from the United States that is subject to the Regulations, or in a[n]y other activity subject to the Regulations, including . . . [c]arrying 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.” On or about August 29, 2006, Loong, acting through Rosen Enterprises, ordered and/or bought 30 inverters, items subject to the EAR and designated as EAR99, from a company located in the United States for export from the United States. Rosen Enterprises is owned and operated by Loong and co-located with Tysonic in Singapore. On or about August 29, 2006, the 30 inverters were exported from the United States to Singapore. The TDO continued in force at the time of the aforementioned actions taken by Loong. In engaging in the conduct described herein, Loong committed one violation of Section 764.2(k) of the Regulations.

As noted in Final Decision and Order, the “ALJ also recommended that the Under Secretary deny Loong’s export privileges for a period of ten years,

citing, *inter alia*, Loong’s ‘clear disregard for the Regulations and U.S. export control law, including the long-standing U.S. trade embargo against Iran and the TDO issued against him in April 2006.’” Final Decision and Order, at 45,498 (quoting Recommended Decision and Order at 8).

The Under Secretary agreed with this recommendation and imposed the Denial Order given, *inter alia*, the nature and number of the violations and the importance of deterring Loong and others from acting to evade the Regulations and otherwise knowingly violate the Regulations. *Id.*

B. Related Person’s Notice Letter

This matter is now before me upon BIS’s request to add Tysonic Enterprises (“Tysonic”) to the Denial Order as a related person to Loong.³

Pursuant to the Regulations, BIS notified Tysonic of its intent to add Tysonic as a person related to Loong by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business, in light of Loong’s position as owner/operator of Tysonic. This notice was provided by letter on September 10, 2013, in accordance with Sections 766.5(b) and 766.23(b) of the Regulations.

Tysonic never responded.

II. Application of Section 766.23 (Related Persons)

A. Legal Standard

Section 766.23(a) of the Regulations provides, in pertinent part, that:

In order to prevent evasion, certain types of orders under [Part 766] may be made applicable not only to the respondent, but also to other persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. Orders that may be made applicable to related persons include those that deny or affect export privileges, including temporary denial orders, and those that exclude a respondent from practice before BIS.

15 CFR 766.23(a). Thus, a denial order may be made applicable to related persons, by adding them to the denial order at issue, in order to prevent evasion of the order. *Id.*

B. Findings

Based on the record here, I find that Tysonic is a related person to Loong and that Tysonic should be added to the Denial Order in order to prevent its

³ I have been designated by the Under Secretary as the authorized official to consider BIS’s request under Section 766.23 of the Regulations. *See* 15 CFR 766.23(b).

² 31 CFR Part 560 (2005).

evasion. Tysonic is owned and operated by Loong.

In addition, Tysonic was involved in two of the transactions and violations that led to the issuance of the Denial Order against Loong. As alleged in the violations set forth in Charges 1 and 2 of the Charging Letter, determined by the ALJ, and affirmed by the Under Secretary, Loong, in his capacity as owner and operator of Tysonic, ordered and/or bought GPS engines and peak power meter from the United States and had the items shipped to Tysonic in Singapore. Following the arrival of the items in Singapore, the items were then shipped on to Iran. As a result of these transactions, on April 12, 2006, BIS temporarily denied the export privileges of both Loong and Tysonic for a period of 180 days. *In the matter of Tysonic Enterprises and Chan Heep Loong*, 71 FR 20074 (April 19, 2006).

Furthermore, while subject to this temporary denial order (“TDO”), Loong continued to procure items subject to the EAR from the United States, in clear violation of the terms of the TDO, and did so by evasively using another company, Rosen Enterprises, which he also owned and operated and which was co-located with Tysonic. *See* Charge 3. Thus, Loong has already demonstrated his willingness to use companies related to him to contravene and evade a denial order issued against him.

Based on the foregoing and the record as a whole in this matter, I find that Tysonic is a person related to Loong by “ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business” pursuant to Section 766.23 of the Regulations, and that the Denial Order against Loong, which will remain in effect until December 29, 2023, should be made applicable to Tysonic in order to prevent evasion of that order.

III. Order

It is therefore ordered:

First, that from the date this Order is published in the **Federal Register**, until July 29, 2023, Tysonic Enterprises, located at 10 Anson Road, 15–14 International Plaza, Singapore, 079903 SG, and its successors and assigns, and when acting for or on its behalf, its directors, officers, employees, representatives, or agents (hereinafter referred to as “Denied Person”) may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, or in any other activity

subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning 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. 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.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to 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 this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

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

This Order is effective upon publication in the **Federal Register** and shall remain in effect until July 29, 2023.

Entered this 30th day of September, 2013.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2013–24401 Filed 10–7–13; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of:

Timothy Gormley, Inmate Number—68687–066, USP Lewisburg, US Penitentiary, P.O. Box 1000, Lewisburg, PA 17837.

On January 17, 2013, in the U.S. District Court, Eastern District of Pennsylvania, Timothy Gormley (“Gormley”), was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (“IEEPA”). Specifically, Gormley was convicted on five counts of violating IEEPA by engaging in transactions relating to exporting amplifiers to China and India without obtaining the required licenses. Gormley was sentenced to 42 months of imprisonment, five years of supervised release, a \$500 assessment and a \$1,000 criminal fine.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”)¹ provides, in pertinent

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (“EAA”). Since August 21, 2001, the EAA 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 (August 12, 2013)), has continued the Regulations in effect under the International Emergency Economic