

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Yarde Metals
999 Motor Parkway
Hauppauge, New York 11788

Dear Sir or Madame :

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has reason to believe that Yarde Metals ("Yarde"), of Hauppauge, NY, has committed three violations of the Export Administration Regulations (the "Regulations"),¹ which are issued under the authority of the Export Administration Act of 1979 (the "Act").² Specifically, BIS charges that Yarde committed the following violations:

Charge 1 (15 C.F.R. §764.2(a) - Unlicensed Export to a Listed Entity in India.)

On or about May 5, 2003 Yarde engaged in conduct prohibited by the Regulations when it exported one aluminum plate, an item subject to the Regulations, from the United States to Vikram Sarabhai Space Center (VSSC) in India without the required U.S. Department of Commerce license. A license was required for this export under Section 744.1 and Supplement No. 4 to Section 744 of the Regulations. At all times relevant hereto, VSSC was listed on BIS's Entity List. In so doing, Yarde committed one violation of Section 764.2(a).

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2004). The violations charged occurred in 2003. The Regulations governing the violations at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2004 Regulations establish the procedures that apply to this matter.

² 50 U.S.C. app. §§ 2401- 2420 (2000). 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 C.F.R., 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 by Pub. L. No. 106-508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. 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 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), continues the Regulations in effect under IEEPA. The Act and Regulations are available on the Government Printing Office website at: <http://w3.access.gpo.gov/bis/>.

Charge 2 (15 C.F.R. §764.2(g) - False Statement on a Shipper's Export Declaration Concerning Authority to Export.)

On or about May 5, 2003 Yarde filed or caused to be filed with the U.S. Government a Shipper's Export Declaration stating that an aluminum plate, an item subject to the Regulations, qualified for export from the United States to VSSC in India as NLR ("No License Required"). This representation was false because a license was required for this export under Section 744.1 and Supplement No. 4 to Section 744 of the Regulations. In so doing, Yarde committed one violation of Section 764.2(g) of the Regulations.

Charge 3 (15 C.F.R. §764.2(e) - Selling to a Listed Entity with Knowledge that a Violation of the Regulations Would Occur.)

On or about May 5, 2003 Yarde sold an aluminum plate, an item subject to the Regulations, to VSSC in India with knowledge or reason to know that a violation of the Regulations would subsequently occur in connection with that item. Specifically, Yarde had reason to know that a U.S. Department of Commerce license was required for the export and further knew that such license would not be obtained. In so doing, Yarde committed one violation of Section 764.2(g) of the Regulations.

Accordingly, Yarde 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 any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation;³

Denial of export privileges; and/or

Exclusion from practice before BIS.

If Yarde 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. (Regulations, Sections 766.6 and 766.7). If Yarde defaults, the Administrative Law Judge may find the charges alleged in this letter to be true without hearing or further notice to Yarde. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each charge in this letter.

Yarde 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. (Regulations, Section 766.6). Yarde is also entitled to be represented by

³ See 15 C.F.R. §6.4(a)(4) (2004).

Yarde Metals
Proposed Charging Letter
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counsel or other authorized representative who has power of attorney to represent it. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Yarde have a proposal to settle this case, Yarde or its representative should transmit the offer to the individual 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, Yarde'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 Yarde's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security
Attention: Charles Wall
Room H-3839
United States Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Charles Wall is representing BIS in this case; any communications that you may wish to have concerning this matter should occur through him. He may be contacted by telephone at (202) 482-5301.

Sincerely,

Acting Director
Office of Export Enforcement

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

In the Matter of:)
)
Yarde Metals, Inc.)
999 Motor Parkway)
Hauppauge, New York 11788)
)
Respondent.)
_____)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Respondent, Yarde Metals, Inc. (“Yarde”), and the Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) (collectively referred to as “Parties”), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),¹ issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),²

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

WHEREAS, BIS has issued a proposed charging letter to Yarde that alleged that

¹ The violation charged occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2004 Regulations establish the procedures that apply to this matter.

² 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)), as extended by the Notice of August 6, 2004 (69 *Fed. Reg.* 48763, August 10, 2004), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Yarde committed one violation of the Regulations, specifically:

1. *One Violation of 15 C.F.R. §764.2(a) - Unlicensed Export to a Listed Entity in India:* On or about May 5, 2003, Yarde engaged in conduct prohibited by the Regulations when it exported one aluminum plate, an item subject to the Regulations, from the United States to Vikram Sarabhai Space Center (“VSSC”) in India without the required U.S. Department of Commerce license. A license was required for this export under Section 744.1 and Supplement No. 4 to Section 744 of the Regulations. At all times relevant hereto, VSSC was listed on BIS’s Entity List.

WHEREAS, Yarde has reviewed the proposed charging letter and is aware of the allegations made against it and the administrative sanctions which could be imposed against it if the allegations are found to be true;

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

WHEREAS, Yarde enters into this Agreement voluntarily and with full knowledge of its rights;

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

WHEREAS, Yarde neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Yarde wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Yarde agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Yarde, under the Regulations, in connection with the matters alleged in the proposed charging letter.

2. The following sanction shall be imposed against Yarde in complete settlement of the violation of the Regulations set forth in the proposed charging letter:

a. Yarde shall be assessed a civil penalty in the amount of \$10,000, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order. Payment shall be made in the manner specified in the attached instructions.

b. 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 Yarde. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Yarde's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Yarde 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 entered), including, without limitation, any right to:

(a) an administrative hearing regarding the allegations in the proposed charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$10,000 civil penalty, BIS will not initiate any further administrative proceeding against Yarde in connection with any violation of the Act or the Regulations arising out of the transaction identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted 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 entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the United States 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 entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

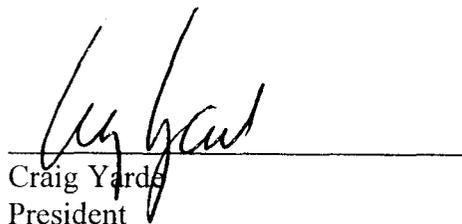
9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

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

YARDE METALS, INC



Director
Office of Export Enforcement



Craig Yarde
President

Date: 2/22/05

Date: 2/14/05

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

In the Matter of:)
)
Yarde Metals, Inc.)
999 Motor Parkway)
Hauppauge, New York 11788)
)
Respondent.)
_____)

ORDER RELATING TO YARDE METALS.

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Yarde Metals, Inc. (“Yarde”) of its intention to initiate an administrative proceeding against Yarde pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2004)) (“Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),² by issuing a proposed charging letter to Yarde that alleged that Yarde committed one violation of the Regulations. Specifically, the charge is:

1. *One Violation of 15 C.F.R. §764.2(a) - Unlicensed Export to a Listed Entity in India:* On or about May 5, 2003, Yarde engaged in conduct prohibited by the

¹ The violation charged occurred in 2003. The Regulations governing the violation at issue are found in the 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003)). The 2004 Regulations establish the procedures that apply to this matter.

² 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)), as extended by the Notice of August 6, 2004 (69 Fed. Reg. 48763, August 10, 2004), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

Regulations when it exported one aluminum plate, an item subject to the Regulations, from the United States to Vikram Sarabhai Space Center (VSSC) in India without the required U.S. Department of Commerce license. A license was required for this export under Section 744.1 and Supplement No. 4 to Section 744 of the Regulations. At all times relevant hereto, VSSC was listed on BIS's Entity List.

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

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$10,000 is assessed against Yarde, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

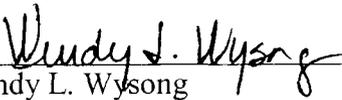
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Yarde will be assessed, in addition 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 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 Yarde. Accordingly, if Yarde should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Yarde's export privileges for a period of one year from the date of entry of this Order.

FOURTH, 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.



Wendy L. Wysong
Acting Assistant Secretary of
Commerce for Export Enforcement

Entered this 25th day of February 2005.