

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

In the Matter of:)
)
Clark Material Handling Company)
700 Enterprise Drive)
Lexington, Kentucky 40510)
)
Respondent)

ORDER RELATING TO CLARK MATERIAL HANDLING COMPANY

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Clark Material Handling Company (“CMHC”) of its intention to initiate an administrative proceeding against CMHC pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2005)) (“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 CMHC that alleged that CMHC committed 19 violations of the Regulations. Specifically, the charges are:

1. *One Violation of 15 C.F.R. § 764.2(d) - Conspiracy to Violate the Regulations:*

Beginning in or about February 2003 and continuing through in or about

¹ The violations charged occurred between 2003 and 2004. The Regulations governing the violations at issue are found in the 2003-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2005 Regulations govern the procedural aspects of the case.

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 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

December 2004, CMHC, through its Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative, conspired and acted in concert with others, known and unknown, to do or bring about an act that violates the Regulations. The purpose of the conspiracy was to export lift truck parts (“parts”), items subject to the Regulations (“EAR 99”³) and the Iranian Transactions Regulations⁴, from the United States to Iran without the required U.S. Government authorization. In furtherance of the conspiracy, CMHC exported or caused the export of parts from the United States through the United Arab Emirates (“UAE”) to Iran. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”) before the parts could be exported to Iran.

2. *Five Violations of 15 C.F.R. § 764.2(a) - Exporting Lift Truck Parts to Iran Without the Required Authorizations:* On five occasions between on or about March 28, 2003 and on or about December 18, 2003, CMHC engaged in conduct prohibited by the Regulations by exporting or causing to be exported parts, items subject to the Regulations (“EAR 99”) and the Iranian Transactions Regulations, from the United States to Iran through the UAE without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from OFAC before the parts could be exported to Iran.

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

3. *Five Violations of 15 C.F.R. § 764.2(e) - Unlicensed Transfers of Lift Truck Parts to Iran Knowing that Violations of the Regulations were to Occur:* In connection with the five exports to Iran described above, CMHC, through its Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative, transferred parts, items subject to the Regulations, from the United States to Iran knowing that violations of the Regulations would occur. At all times relevant thereto, CMHC knew that the parts required authorization from the U.S. Government for export to Iran and that authorization for the exports would not be obtained.
4. *Two Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Regarding Country of Ultimate Destination:* In connection with two of the exports of parts to Iran described above, CMHC filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government that stated that the country of ultimate destination for the parts was the UAE. These two representations were false, as the actual country of ultimate destination for the parts described in the SEDs was Iran.
5. *Two Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignee:* In connection with two of the exports of parts to Iran described above, CMHC filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the identity of the ultimate consignee for the parts was a business in the UAE. These two representations were false, as the actual ultimate consignee in the transactions was located in Iran.

6. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 1, 2004, in connection with an ongoing BIS, Office of Export Enforcement (“OEE”) investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC’s Government/National Accounts Parts Sales Representative represented to an OEE Special Agent that to his knowledge, no CMHC parts had been exported to Iran. This representation was false, as CMHC’s Government/National Accounts Parts Sales Representative had been involved in the export of CMHC parts to Iran via the UAE.
7. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC’s Vice President of Global Parts Marketing represented to an OEE Special Agent that he had not coordinated any shipments of CMHC items to Iran. This representation was false, as CMHC’s Vice President of Global Parts Marketing had coordinated the exports of CMHC parts to Iran via the UAE.
8. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC’s Vice President of Global Parts Marketing represented to

an OEE Special Agent that he was unaware of any shipments of CMHC parts to a co-conspirator in the UAE or of any shipments to the co-conspirator that were subsequently shipped to Iran. This representation was false, as CMHC's Vice President of Global Parts Marketing had arranged for the export of CMHC parts to Iran via the co-conspirator in the UAE.

9. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to an OEE Special Agent that the quotations for CMHC parts that he had instructed a co-conspirator to provide to an Iranian company did not result in orders to the Iranian company. This representation was false, as CMHC's Vice President of Global Parts Marketing and the co-conspirator arranged to fill orders placed by the Iranian company for CMHC parts.

WHEREAS, BIS and CMHC 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 \$200,000 is assessed against CMHC, 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.

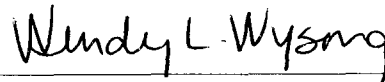
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.

§§ 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, CMHC 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 CMHC. Accordingly, if CMHC should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of CMHC'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
Deputy Assistant Secretary of Commerce
for Export Enforcement

Entered this 5th day of October 2005.

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

In the Matter of:)
)
Clark Material Handling Company)
700 Enterprise Drive)
Lexington, Kentucky 40510)
)
Respondent)

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between Clark Material Handling Company (“CMHC”) 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 (2005)) (“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 CMHC of its intention to initiate an administrative proceeding against CMHC, pursuant to the Act and the Regulations;

¹ The violations charged occurred between 2003 and 2004. The Regulations governing the violations at issue are found in the 2003-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2005 Regulations govern the procedural aspects of the case.

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 2, 2005, (70 Fed. Reg. 45273 (August 5, 2005)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)).

WHEREAS, BIS has issued a proposed charging letter to CMHC that alleged that CMHC committed 19 violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 764.2(d) - Conspiracy to Violate the Regulations:*
Beginning in or about February 2003 and continuing through in or about December 2004, CMHC, through its Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative, conspired and acted in concert with others, known and unknown, to do or bring about an act that violates the Regulations. The purpose of the conspiracy was to export lift truck parts (“parts”), items subject to the Regulations (“EAR 99”³) and the Iranian Transactions Regulations⁴, from the United States to Iran without the required U.S. Government authorization. In furtherance of the conspiracy, CMHC exported or caused the export of parts from the United States through the United Arab Emirates (“UAE”) to Iran. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”) before the parts could be exported to Iran.
2. *Five Violations of 15 C.F.R. § 764.2(a) - Exporting Lift Truck Parts to Iran Without the Required Authorizations:* On five occasions between on or about

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

March 28, 2003 and on or about December 18, 2003, CMHC engaged in conduct prohibited by the Regulations by exporting or causing to be exported parts, items subject to the Regulations ("EAR 99") and the Iranian Transactions Regulations, from the United States to Iran through the UAE without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from OFAC before the parts could be exported to Iran.

3. *Five Violations of 15 C.F.R. § 764.2(e) - Unlicensed Transfers of Lift Truck Parts to Iran Knowing that Violations of the Regulations were to Occur:* In connection with the five exports to Iran described above, CMHC transferred parts, items subject to the Regulations, from the United States to Iran knowing that violations of the Regulations would occur. At all times relevant thereto, CMHC's Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative knew that the parts required authorization from the U.S. Government for export to Iran and that authorization for the exports would not be obtained.
4. *Two Violations of 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Regarding Country of Ultimate Destination:* In connection with two of the exports of parts to Iran described above, CMHC filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government that stated that the country of ultimate destination for the parts was

the UAE. These two representations were false, as the actual country of ultimate destination for the parts described in the SEDs was Iran.

5. *Two Violations of 15 C.F.R. § 764.2(g) - False Statements on Shipper's Export Declarations Concerning Identity of Ultimate Consignee:* In connection with two of the exports of parts to Iran described above, CMHC filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the identity of the ultimate consignee for the parts was a business in the UAE. These two representations were false, as the actual ultimate consignee in the transactions was located in Iran.
6. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 1, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Government/National Accounts Parts Sales Representative represented to an OEE Special Agent that to his knowledge, no CMHC parts had been exported to Iran. This representation was false, as CMHC's Government/National Accounts Parts Sales Representative had been involved in the export of CMHC parts to Iran via the UAE.
7. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about

December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to an OEE Special Agent that he had not coordinated any shipments of CMHC items to Iran. This representation was false, as CMHC's Vice President of Global Parts Marketing had coordinated the exports of CMHC parts to Iran via the UAE.

8. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to an OEE Special Agent that he was unaware of any shipments of CMHC parts to a co-conspirator in the UAE or of any shipments to the co-conspirator that were subsequently shipped to Iran. This representation was false, as CMHC's Vice President of Global Parts Marketing had arranged for the export of CMHC parts to Iran via the co-conspirator in the UAE.

9. *One Violation of 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation:* On or about December 28, 2004, in connection with an ongoing BIS, OEE investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to

an OEE Special Agent that the quotations for CMHC parts that he had instructed a co-conspirator to provide to an Iranian company did not result in orders to the Iranian company. This representation was false, as CMHC's Vice President of Global Parts Marketing and the co-conspirator arranged to fill orders placed by the Iranian company for CMHC parts.

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

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

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

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

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

NOW THEREFORE, the Parties hereby agree as follows:

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

2. The following sanction shall be imposed against CMHC in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:

- a. CMHC shall be assessed a civil penalty in the amount of \$200,000 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.
- 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, permission, or privilege granted, or to be granted, to CMHC. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of CMHC'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, CMHC 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 \$200,000 civil penalty, BIS will not initiate any further administrative proceeding against CMHC in connection with any violation of the Act or the Regulations arising out of the transactions 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 U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS 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.

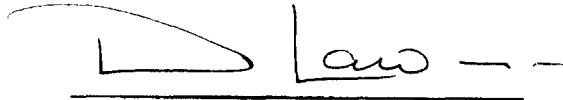
BUREAU OF INDUSTRY AND SECURITY
U.S. DEPARTMENT OF COMMERCE



Michael D. Turner
Director
Office of Export Enforcement

Date: 10/4/05

CLARK MATERIAL HANDLING COMPANY



Dennis Lawrence
President and Chief Operating Officer

Date: SEPTEMBER 30, 2005

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Clark Material Handling Company
2317 Alumni Park Plaza Suite 500
Lexington, Kentucky 40517

*Attention: Brian Butler
President*

Dear Mr. Butler:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), has reason to believe that Clark Material Handling Company ("CMHC") of Lexington, Kentucky, has committed 19 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 CMHC committed the following violations:

Charge 1 15 C.F.R. § 764.2(d) -Conspiracy to Violate the Regulations

Beginning in or about February 2003 and continuing through in or about December 2004, CMHC, through its Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative, conspired and acted in concert with others, known and unknown, to do or bring about an act that violates the Regulations. The purpose of the

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred between 2003 and 2004. The Regulations governing the violations at issue are found in the 2003-2004 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2003-2004)). The 2005 Regulations govern the procedural aspects of the case.

² 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)), 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)).

conspiracy was to export lift truck parts (“parts”), items subject to the Regulations (“EAR 99”³) and the Iranian Transactions Regulations⁴, from the United States to Iran without the required U.S. Government authorization. In furtherance of the conspiracy, CMHC exported or caused the export of parts from the United States through the United Arab Emirates (“UAE”) to Iran. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of Treasury (“OFAC”) before the parts could be exported to Iran. In so doing, CMHC committed one violation of Section 764.2(d) of the Regulations.

Charges 2-6 15 C.F.R. § 764.2(a) - Exporting Lift Truck Parts to Iran Without the Required Authorizations

As set forth in Schedule A, which is enclosed herewith and incorporated herein by reference, on five occasions between on or about March 28, 2003 and on or about December 18, 2003, CMHC engaged in conduct prohibited by the Regulations by exporting or causing to be exported parts, items subject to the Regulations (“EAR 99”) and the Iranian Transactions Regulations, from the United States to Iran through the United Arab Emirates (“UAE”) without the required U.S. Government authorizations. Pursuant to Section 746.7 of the Regulations, authorizations were required from OFAC before the parts could be exported to Iran. In so doing, CMHC committed five violations of Section 764.2(a) of the Regulations.

Charges 7-11 15 C.F.R. § 764.2(e) - Unlicensed Transfers of Parts to Iran Knowing that Violations of the Regulations were to Occur

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with the five exports to Iran described in Charges 2-6 above, CMHC, through its Vice President of Global Parts Marketing and its Government/National Accounts Parts Sales Representative, transferred parts, items subject to the Regulations, from the United States to Iran knowing that violations of the Regulations would occur. At all times relevant thereto, CMHC knew that the parts required authorization from the U.S. Government and that authorization for the exports would not be obtained. In so doing, CMHC committed five violations of Section 764.2(e) of the Regulations.

³EAR 99 is a designation for items subject to the Regulations that are not listed on the Commerce Control List.

⁴The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

**Charges 12-13 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export
Declarations Regarding Country of Ultimate Destination**

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with two of the exports of parts to Iran described in Charges 5-6 above, CMHC filed or caused to be filed Shipper's Export Declarations ("SEDs"), export control documents, with the U.S. Government that stated that the country of ultimate destination for the parts was the UAE. These two representations were false, as the actual country of ultimate destination for the parts described in the SEDs was Iran. In so doing, CMHC committed two violations of Section 764.2(g) of the Regulations.

**Charges 14-15 15. C.F.R. § 764.2(g) - False Statements on Shipper's Export
Declarations Concerning Identity of Ultimate Consignee**

As described in greater detail in Schedule A, which is enclosed herewith and incorporated herein by reference, in connection with two of the exports of parts to Iran described in Charges 5-6 above, CMHC filed or caused to be filed SEDs, export control documents, with the U.S. Government that stated that the identity of the ultimate consignee for the parts was a business in the UAE. These two representations were false, as the actual ultimate consignee in the transactions was located in Iran. In so doing, CMHC committed two violations of Section 764.2(g) of the Regulations.

**Charge 16 15 C.F.R. § 764.2(g) - False Statement to an Office of Export
Enforcement Special Agent in the Course of an Investigation**

On or about December 1, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Government/National Accounts Parts Sales Representative represented to an OEE Special Agent that to his knowledge, no CMHC parts had been exported to Iran. This representation was false, as CMHC's Government/National Accounts Parts Sales Representative had been involved in the export of CMHC parts to Iran via the UAE. In so doing, CMHC committed one violation of Section 764.2(g)(1) of the Regulations.

**Charge 17 15 C.F.R. § 764.2(g) - False Statement to an Office of Export
Enforcement Special Agent in the Course of an Investigation**

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing

represented to an OEE Special Agent that he had not coordinated any shipments of CMHC items to Iran. This representation was false, as CMHC's Vice President of Global Parts Marketing had coordinated the exports of CMHC parts to Iran via the UAE as described in Charges 2-6 above. In so doing, CMHC committed one violation of Section 764.2(g)(1) of the Regulations.

Charge 18 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to an OEE Special Agent that he was unaware of any shipments of CMHC parts to a co-conspirator in the UAE or of any shipments to the co-conspirator that were subsequently shipped to Iran. This representation was false, as CMHC's Vice President of Global Parts Marketing had arranged for the export of CMHC parts to Iran via the co-conspirator in the UAE as described in Charges 2-6 above. In so doing, CMHC committed one violation of Section 764.2(g)(1) of the Regulations.

Charge 19 15 C.F.R. § 764.2(g) - False Statement to an Office of Export Enforcement Special Agent in the Course of an Investigation

On or about December 28, 2004, in connection with an ongoing BIS, Office of Export Enforcement ("OEE") investigation into the unauthorized export of parts, items subject to the Regulations, from the United States to Iran, CMHC's Vice President of Global Parts Marketing represented to an OEE Special Agent that the quotations for CMHC parts that he had instructed a co-conspirator to provide to an Iranian company did not result in orders to the Iranian company. This representation was false, as CMHC's Vice President of Global Parts Marketing and the co-conspirator arranged to fill orders placed by the Iranian company for CMHC parts. In so doing, CMHC committed one violation of Section 764.2(g)(1) of the Regulations.

Accordingly, CMHC 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 up to \$11,000 per violation;⁵

Denial of export privileges; and/or

⁵See 15 C.F.R. §6.4(a)(4) (2005).

Exclusion from practice before BIS.

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

CMHC is further notified that it is entitled to an agency hearing on the record if CMHC files a written demand for one with its answer. (Regulations, Section 766.6). CMHC is also entitled to be represented by 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 CMHC have a proposal to settle this case, CMHC or its representative 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, CMHC'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 CMHC's answer must be served on BIS at the following address:

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

Clark Material Handling Company
Proposed Charging Letter
Page 6 of 6

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

Sincerely,

Michael Turner
Director
Office of Export Enforcement

Enclosure