

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

In the Matter of:
KMT GmbH
Hohe Strasse 4-6
61231 Bad Nauheim
Germany

Respondent

ORDER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has notified KMT GmbH of Bad Nauheim, Germany (“KMT GmbH”), of its intention to initiate an administrative proceeding against KMT GmbH pursuant to Section 766.3 of the Export Administration Regulations (the “Regulations”),¹ and Section 13(c) of the Export Administration Act of 1979, as amended (the “Act”),² through the issuance of a Proposed Charging Letter to KMT GmbH that alleges that KMT GmbH committed one violation of the Regulations. Specifically, the charge is:

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2008. The Regulations governing the violation at issue are found in the 2008 versions of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

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)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 Fed. Reg. 49,107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

Charge 1 **15 C.F.R. § 764.2(h): Evasion**

On or about October 27, 2008, KMT GmbH engaged in transactions or took actions with intent to evade the Regulations in connection with the attempted unauthorized export to Iran, via transshipment through Germany, of nine high-pressure water pumps destined for use in the South Pars Industrial Complex, an energy field involved in Iran's oil and petrochemical industry. The items were subject to the Regulations and the Iranian Transactions Regulations ("ITR"),³ with a declared total value of approximately \$800,000.⁴ KMT GmbH submitted an order to a U.S. sister company, KMT Aqua-Dyne, Inc. ("KMT Aqua-Dyne"), in Houston, Texas, for the manufacture and export of the pumps. Although KMT GmbH's purchasing manager, a KMT GmbH sales and product manager, and other KMT GmbH employees were aware that the items actually were destined for use in Iran's South Pars Industrial Complex, the purchase order omitted this information. KMT GmbH also falsely represented to KMT Aqua-Dyne that the ultimate destination for the pumps was a customer in the United Arab Emirates. Pursuant to the order and based upon the false information provided by KMT GmbH, KMT Aqua-Dyne manufactured the pumps and shipped them to KMT GmbH in two separate shipments, the first on or about February 24, 2009, containing two pumps, and the second on or about March 6, 2009 containing the remaining seven pumps. KMT GmbH's intention was to transship all nine pumps to Iran and it attempted to do so, but the transshipment was halted by law enforcement. The items subsequently were redelivered to the United States and detained and seized by U.S. Customs and Border Protection.

Pursuant to Section 560.204 of the ITR (2008) administered by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations (2008), no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transactions described herein.

KMT GmbH took the actions described above in order to avoid the U.S. embargo on Iran and the requirement to obtain U.S. Government authorization to export the items at issue

³ 31 C.F.R. Part 560 (2008). By Federal Register notice dated Oct. 22, 2012, the Department of the Treasury Office of Foreign Assets Control ("OFAC") renamed the ITR as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

⁴ The items were designated "EAR99" under the Regulations, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

to Iran. In so doing, KMT GmbH committed one violation of Section 764.2(h) of the Regulations.

WHEREAS, the items at issue were manufactured by KMT Aqua-Dyne in Houston, Texas,⁵ and redelivered to that location;

WHEREAS, KMT GmbH and KMT Aqua-Dyne are indirectly-owned subsidiaries of KMT Group AB, which is located in Stockholm, Sweden;

WHEREAS, KMT Group AB is acting on behalf of KMT GmbH and KMT Aqua-Dyne in connection with this matter;

WHEREAS, BIS has taken into consideration the settlement that KMT Group AB is entering into with the Department of the Treasury's Office of Foreign Assets Control regarding KMT GmbH's conduct in connection with the two attempted unlicensed exports of the items from the United States through Germany to Iran on, respectively, February 25, 2009 and March 6, 2009;

WHEREAS, BIS has entered into a Settlement Agreement with KMT GmbH, KMT Group AB, and KMT Aqua-Dyne (collectively, "KMT") 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, a civil penalty in the amount of \$125,000 shall be assessed for which KMT GmbH and KMT Group AB shall be jointly and severally liable. The payment of

⁵ KMT Aqua-Dyne is a Texas corporation currently located in Baxter Springs, Kansas, that was located in Houston, Texas, at the time the violation at issue occurred.

the penalty shall be made to the U.S. Department of Commerce within 30 days of the date of this Order.

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, KMT GmbH and KMT Group AB 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, KMT shall complete an external audit of the export controls compliance programs of all of its operating entities worldwide, including its foreign subsidiaries and affiliates. KMT shall hire an unaffiliated third party consultant with expertise in U.S. export control laws to conduct the external audit of the operating entities' compliance with U.S. export control laws (including recordkeeping requirements) that apply to exports and reexports to, or otherwise involving, Country Group E:1 (Terrorist supporting countries), Supp. 1 to Part 740 of the Regulations. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 15109 Heathrow Forest Parkway, Suite 170, Houston, Texas 77032 ("BIS Houston Resident Office"). The audit shall cover the 24-month period beginning on July 1, 2011, and the related report shall be due to the BIS Houston Resident Office no later than 6 months from the date of this Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of KMT's compliance with the Regulations. The EMS sample audit module is available on the BIS web site at http://www.bis.doc.gov/complianceandenforcement/revise_emcp_audit.pdf. In addition,

where said audit identifies actual or potential violations of the Regulations, KMT shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Houston Resident Office.

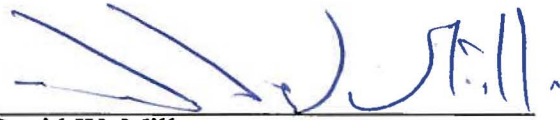
FOURTH, KMT shall not contest any forfeiture proceedings by the U.S. Government involving the items at issue.

FIFTH, that the full and timely payment of the civil penalty in accordance with the payment schedule set forth in Paragraph First above, the completion and submission of the audit as set forth in Paragraph Third above, and compliance with Paragraph Fourth as set forth above, 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 KMT. Accordingly, if KMT GmbH and KMT Group AB should fail to pay the civil penalty in a full and timely manner, KMT should fail to complete and submit the audit, or KMT should contest the forfeiture proceedings, the undersigned may issue an order denying all of KMT's export privileges under the Regulations for a period of one year from the earliest date that any of these conditions are not met.

SIXTH, KMT 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 KMT's testimonial obligations in any proceeding.

SEVENTH, 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.

A handwritten signature in blue ink, appearing to read 'D. W. Mills', is written over a horizontal line.

David W. Mills
Assistant Secretary of Commerce
for Export Enforcement

Issued this 23rd day of September, 2013.

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

In the Matter of:

KMT GmbH
Hohe Strasse 4-6
61231 Bad Nauheim
Germany

Respondent

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made by and between KMT GmbH of Bad Nauheim, Germany, KMT Group AB of Stockholm, Sweden (“KMT Group AB”), and KMT Aqua-Dyne, Inc. of Baxter Springs, Kansas (“KMT Aqua-Dyne”) (collectively referred to as “KMT”), 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”),¹ issued pursuant to the Export Administration Act of 1979, as amended (the “Act”).²

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

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The charged violation occurred in 2008. The Regulations governing the violation at issue are found in the 2008 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774). The 2013 Regulations set forth the procedures that apply to this matter.

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)), which has been extended by successive Presidential Notices, the most recent being that of the most recent being that of August 8, 2013 (78 Fed. Reg. 49,107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 & Supp. IV 2010).

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

Charge 1 15 C.F.R. § 764.2(h): Evasion

On or about October 27, 2008, KMT GmbH engaged in transactions or took actions with intent to evade the Regulations in connection with the attempted unauthorized export to Iran, via transshipment through Germany, of nine high-pressure water pumps destined for use in the South Pars Industrial Complex, an energy field involved in Iran's oil and petrochemical industry. The items were subject to the Regulations and the Iranian Transactions Regulations ("ITR"),³ with a declared total value of approximately \$800,000.⁴ KMT GmbH submitted an order to a U.S. sister company, KMT Aqua-Dyne, Inc. ("KMT Aqua-Dyne"), in Houston, Texas, for the manufacture and export of the pumps. Although KMT GmbH's purchasing manager, a KMT GmbH sales and product manager, and other KMT GmbH employees were aware that the items actually were destined for use in Iran's South Pars Industrial Complex, the purchase order omitted this information. KMT GmbH also falsely represented to KMT Aqua-Dyne that the ultimate destination for the pumps was a customer in the United Arab Emirates. Pursuant to the order and based upon the false information provided by KMT GmbH, KMT Aqua-Dyne manufactured the pumps and shipped them to KMT GmbH in two separate shipments, the first on or about February 24, 2009, containing two pumps, and the second on or about March 6, 2009 containing the remaining seven pumps. KMT GmbH's intention was to transship all nine pumps to Iran and it attempted do so, but the transshipment was halted by law enforcement. The items subsequently were redelivered to the United States and detained and seized by U.S. Customs and Border Protection.

Pursuant to Section 560.204 of the ITR (2008) administered by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations (2008), no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transactions described herein.

³ 31 C.F.R. Part 560 (2008). By Federal Register noticed dated Oct. 22, 2012, the Department of the Treasury Office of Foreign Assets Control ("OFAC") renamed the ITR as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

⁴ The items were designated "EAR99" under the Regulations, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

KMT GmbH took the actions described above in order to avoid the U.S. embargo on Iran and the requirement to obtain U.S. Government authorization to export the items at issue to Iran. In so doing, KMT GmbH committed one violation of Section 764.2(h) of the Regulations.

WHEREAS, the items at issue were manufactured by KMT Aqua-Dyne in Houston, Texas,⁵ and redelivered to that location;

WHEREAS, KMT GmbH and KMT Aqua-Dyne are indirectly-owned subsidiaries of KMT Group AB;

WHEREAS, KMT Group AB is acting on behalf of KMT GmbH and KMT Aqua-Dyne in connection with this matter;

WHEREAS, BIS has taken into consideration the settlement that KMT Group AB is entering into with the Department of the Treasury's Office of Foreign Assets Control regarding KMT GmbH's conduct in connection with the two attempted unlicensed exports of the items from the United States through Germany to Iran on, respectively, February 25, 2009 and March 6, 2009;

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

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

⁵ KMT Aqua-Dyne is a Texas corporation currently located in Baxter Springs, Kansas, that was located in Houston, Texas, at the time the violation at issue occurred.

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

WHEREAS, KMT neither admits nor denies the allegations contained in the Proposed Charging Letter; and

WHEREAS, KMT 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 KMT, under the Regulations, in connection with the matters alleged in the Proposed Charging Letter.

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

a. KMT GmbH shall be assessed a civil penalty in the amount of \$125,000, for which KMT GmbH and KMT Group AB shall be jointly and severally liable. The payment of the penalty shall be made to the U.S. Department of Commerce within 30 days of the date of the Order in the manner specified in the attached instructions.

b. KMT shall complete an external audit of the export controls compliance programs of all of its operating entities worldwide, including its foreign subsidiaries and affiliates. KMT shall hire an unaffiliated third party consultant with expertise in U.S. export control laws to conduct the external audit of the operating entities' compliance with U.S. export control laws (including recordkeeping requirements) that apply to exports and reexports to, or otherwise

involving, Country Group E:1 (Terrorist supporting countries), Supp. 1 to Part 740 of the Regulations. The results of the audit, including any relevant supporting materials, shall be submitted to the Department of Commerce, Bureau of Industry and Security, Office of Export Enforcement, 15109 Heathrow Forest Parkway, Suite 170, Houston, Texas 77032 ("BIS Houston Resident Office"). The audit shall cover the 24-month period beginning on July 1, 2011, and the related report shall be due to the BIS Houston Resident Office no later than 6 months from the date of the Order. Said audit shall be in substantial compliance with the EMS sample audit module, and shall include an assessment of KMT's compliance with the Regulations. The EMS sample audit module is available on the BIS web site at http://www.bis.doc.gov/complianceand enforcement/ revised_emcp_audit.pdf. In addition, where said audit identifies actual or potential violations of the Regulations, KMT shall promptly provide copies of the pertinent air waybills and other export control documents and supporting documentation to the BIS Houston Resident Office.

c. KMT agrees not to contest any forfeiture proceedings by the U.S. Government involving the items.

d. The full and timely payment of the civil penalty agreed to in Paragraph 2.a, the timely completion and submission of the audit in Paragraph 2.b, and the agreement not to contest the forfeiture proceedings described in Paragraph 2.c, 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 KMT. Failing to make full and timely

payment of the civil penalty or to complete and submit the audit, or contesting the forfeiture proceedings as set forth above, may result in the denial of all of KMT's export privileges under the Regulations for one year from the earliest date that any of these conditions are not met.

3. Subject to the approval of this Agreement pursuant to Paragraph 8 hereof, KMT 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. KMT 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 the later of the date that KMT Group AB and KMT GmbH have paid in full the civil penalty agreed to in Paragraph 2.a of this Agreement, KMT has completed and submitted the audit in Paragraph 2.b, or KMT Aqua-Dyne has complied with the provisions regarding any U.S. Government forfeiture proceedings set forth in Paragraph 2.c.

4. KMT 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 KMT'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.

5. BIS agrees that upon full and timely payment of the civil penalty as set forth in Paragraph 2.a, completion and submission of the audit in Paragraph 2.b, and compliance with any forfeiture proceedings as described in Paragraph 2.c, BIS will not initiate any further administrative proceeding against KMT 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 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 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 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



Douglas R. Hassebrock
Director of Export Enforcement

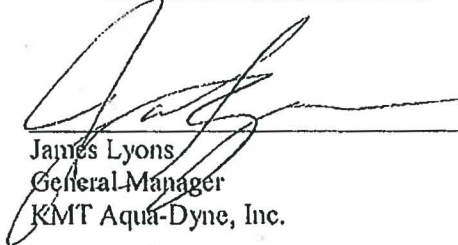
KMT GmbH, KMT Group AB, and KMT
AQUA-DYNE, INC.



Kevin McManus
Managing Director
KMT GmbH
and
President & CEO
KMT Group AB

Date: 9/19/2013

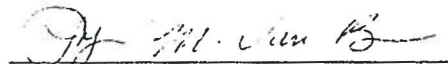
Date: SEPTEMBER 13, 2013



James Lyons
General Manager
KMT Aqua-Dyne, Inc.

Date: September 13, 2013

Reviewed and approved by:



Lynn Van Buren, Esq.
Bryan Cave LLP
Counsel for KMT

Date: September 13, 2013

PROPOSED CHARGING LETTER

REGISTERED MAIL - RETURN RECEIPT REQUESTED

KMT GmbH
Hohe Strasse 4-6
61231 Bad Nauheim
Germany

Attention:

Kevin McManus
Managing Director

Dear Mr. McManus:

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”), has reason to believe that KMT GmbH, of Bad Nauheim, Germany, an indirectly owned-subsubsidiary of KMT Group AB, located in Stockholm, Sweden, has committed one violation of the Export Administration Regulations (the “Regulations”),¹ which issued under the authority of the Export Administration Act of 1979, as amended (the “Act”).² Specifically, BIS charges that KMT GmbH committed the following violation:

Charge 1 15 C.F.R. § 764.2(h): Evasion

On or about October 27, 2008, KMT GmbH engaged in transactions or took actions with intent to evade the Regulations in connection with the attempted unauthorized export to Iran, via transshipment through Germany, of nine high-pressure water pumps destined for use in the South Pars Industrial Complex, an energy field involved in Iran’s oil and petrochemical industry. The items were subject to the Regulations and the Iranian Transactions Regulations (“ITR”),³ with a declared total value of approximately

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2013). The violation charged occurred in 2008. The Regulations governing the violation at issue are found in the 2008 version of the Code of Federal Regulations. See 15 C.F.R. Parts 730-774 (2008). The 2013 Regulations govern the procedural aspects of this case.

² 50 U.S.C. app. §§ 2401- 2420 (2000). Since August 21, 2001 the Act has been in lapse. However, the President, through Executive Order 13,222 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 8, 2013 (78 Fed. Reg. 49,107 (Aug. 12, 2013)), has continued the Regulations in effect under International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.*) (2006 and Supp. IV 2010).

³ 31 C.F.R. Part 560 (2008). By Federal Register noticed dated Oct. 22, 2012, the Department of the Treasury Office of Foreign Assets Control (“OFAC”) renamed the ITR

\$800,000.⁴ KMT GmbH submitted an order to a U.S. sister company, KMT Aqua-Dyne, Inc. (“KMT Aqua-Dyne”),⁵ in Houston, Texas, for the manufacture and export of the pumps. Although KMT GmbH’s purchasing manager, a KMT GmbH sales and product manager, and other KMT GmbH employees were aware that the items actually were destined for use in Iran’s South Pars Industrial Complex, the purchase order omitted this information. KMT GmbH also falsely represented to KMT Aqua-Dyne that the ultimate destination for the pumps was a customer in the United Arab Emirates. Pursuant to the order and based upon the false information provided by KMT GmbH, KMT Aqua-Dyne manufactured the pumps and shipped them to KMT GmbH in two separate shipments, the first on or about February 24, 2009, containing two pumps, and the second on or about March 6, 2009 containing the remaining seven pumps. KMT GmbH’s intention was to transship all nine pumps to Iran and it attempted do so, but the transshipment was halted by law enforcement. The items subsequently were redelivered to the United States and detained and seized by U.S. Customs and Border Protection.

Pursuant to Section 560.204 of the ITR (2008) administered by the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”), an export to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations (2008), no person may engage in the exportation of an item subject to both the Regulations and the ITR without authorization from OFAC. No OFAC authorization was sought or obtained for the transactions described herein.

KMT GmbH took the actions described above in order to avoid the U.S. embargo on Iran and the requirement to obtain U.S. Government authorization to export the items at issue to Iran. In so doing, KMT GmbH committed one violation of Section 764.2(h) of the Regulations.

* * * * *

Accordingly, KMT GmbH 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:

as the Iranian Transactions and Sanctions Regulations and reissued the set of regulations in its entirety. 77 Fed. Reg. 64,664 (Oct. 22, 2012).

⁴ The items were designated “EAR99” under the Regulations, which is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 C.F.R. § 734.3(c).

⁵ KMT Aqua-Dyne, a Texas-based corporation, is an indirectly-owned subsidiary of KMT Group AB. At the time of the violation, KMT Aqua-Dyne was located in Houston, Texas. It is currently located in Baxter Springs, Kansas.

- 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;⁶
- Denial of export privileges;
- Exclusion from practice before BIS; and/or
- Any other liability, sanction, or penalty available under law.

If KMT GmbH 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 (2013). If KMT GmbH defaults, the Administrative Law Judge may find the charges alleged in this letter to be true without a hearing or further notice to KMT GmbH. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty based on the charges in this letter.

KMT GmbH is hereby 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 (2013). KMT GmbH is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent it. 15 C.F.R. §§ 766.3(a) and 766.4 (2013).

The Regulations provide for settlement without a hearing. *See* 15 C.F.R. § 766.18 (2013). Should KMT GmbH have a proposal to settle this case, KMT GmbH or its representative should transmit it through the attorney representing BIS, who is named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, KMT GmbH'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 KMT GmbH's answer must be served on BIS at the following address:

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

⁶ *See* International Emergency Economic Powers Enhancement Act of 2007, Pub. L. No. 110-96, 121 Stat. 1011 (2007).

Parvin R. Huda is the attorney representing BIS in this case; any communications that KMT GmbH 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