

quoted prices in response to this request. The initial Letter "A" indicates that his request for quotation was submitted on behalf of Arak Petrochemical in Iran. Govt. Ex. 24; May 13 Tr. at 230, line 8 to 232, line 9. [Change 1, Penalty]

Ruling: Accepted and Incorporated.

43. The Arak Petrochemical Company and the Razi Petrochemical Company are affiliates of the National Petrochemical Company of Iran. Govt. Ex. 25; May 13 Tr. at 232, line 10 to 234, line 18. [Change 1, Penalty]

Ruling: Accepted and Incorporated.

44. From March 1997 to March 1999, Mr. Mahdi, OTS, and Tech-Link received approximately 195 requests for quotation from customers in Iran, as follows:

72 from the Razi Petrochemical Company

65 from Kala Naft, Tehran

22 from the National Iranian Gas Company

17 from the Arak Petrochemical Company

In addition, during the same time period, Mr. Mahdi, OTS, and Tech-Link received six requests for quotation directly from customers in Iraq and 1117 requests for quotation from Zawana. Govt. Ex. 26; May 13 Tr. at 219, line 21 to 220, line 9; *id.* at 235, line 7 to 238, line 2. [Change 1, Penalty]

Ruling: Accepted and Incorporated.

45. On or about April 9, 2002 Mahdi placed on behalf of Zawana a request for quotation for the delivery of 140 tons of an alumina based catalyst to Syria. Govt. Ex. 29; May 13 Tr. at 260, line 8 to 262, line 13. [Penalty]

Ruling: Accepted for Incorporated.

46. On or about March 10, 2003, Mr. Mahdi received thirteen boxes of business records from the Canadian Department of Justice. These records had been seized by the Royal Canadian Mounted Police during searches of Mr. Mahdi's residence and OTS's business premises in March of 1999 and transferred to the Office of Export Enforcement, U.S. Department of Commerce, through the Office of International Affairs of the Criminal Division of the U.S. Department of Justice, had shipped these records to the Canadian Department of Justice for return to Mr. Mahdi. Govt. Ex. 1A; May 13 Tr. at 73, line 11 to 76, line 11. [Penalty]

Ruling: Accepted and Incorporated.

47. Mr. Mahdi represented to this Court that he wished to receive the above-described business records in order to present a defense in this proceeding. May 13 Tr. at 24, line 9 to 25, line 4 (quoting Mr. Mahdi; request

for continuance dated April 9, 2002). The Court postponed the hearing in this matter partly to accommodate Mr. Mahdi's stated interest in using these records in the hearing in this case. May 13 Tr. at 24, line 9 to 26, line 7; *id.* at 59, line 22 to 60, line 10. However, after receiving those records on or about March 10, 2003, Mr. Mahdi for the first time asserted that health problems prevented him from participating in the hearing. Respondent's Request for Continuance, April 14, 2003; May 13 Tr. at 51, line 16 to 5, line 5; *id.* at 60, line 14 to 62, line 4. [Penalty]

Ruling: Accepted and Incorporated.

48. Mr. Mahdi used an envelope with the pre-printed logo and address of OTS when he served a copy of a pleading in this matter on counsel for BIS. This pleading was received by counsel for BIS on or about May 5, 2003. Govt. Ex. 1B; May 13 Tr. at 76, line 12 to 78, line 1. [Penalty]

Ruling: Accepted and Incorporated.

B. Proposed Ultimate Findings of Fact and Conclusions of Law

49. By order dated September 6, 2002, this Court granted summary decision against Mr. Mahdi on Charge 1, which alleges a conspiracy to export oil field equipment to Iran through Canada in violation of § 746.7 of the EAR. Mr. Mahdi acted on behalf of OTS when he entered into the agreement with BITS and Mr. Strome to make unauthorized exports from the United States to Iran. See paragraphs 3, 10–13 above. Moreover, OTS, through Mr. Mahdi and another employee, Tito DiMarco, took several actions in furtherance of the conspiracy. See paragraphs 7, 19, 28–29, 32, 34, 42, and 44 above. Accordingly, OTS is liable for the conspiracy described in Charge 1.¹⁴ See, e.g., *United States v. Bi-Co Pavers, Inc.*, 741 F.2d 730, 737 (5th Cir. 1984) ("a corporation is criminally liable for the unlawful acts of its agents, provided that such conduct is within the scope of the agent's authority, actual or apparent"); *United States v. United States v. Sherpix*, 512 F.2d 1361, 1367 & n.7 (D.C. cir. 1975) ("a corporation is criminally responsible for acts of its officers and thus can be charged with their conspiracies," provided corporation is "designated as a

¹⁴ Charge 1 alleges that this conspiracy took place "between in or about March 1997 and in about April 1998." According to testimony at the hearing, the conspiracy continued into March 1999. May 13, 2003 at Tr. at 113, lines 9–21; *id.* at 118, lines 2–24. Mr. Mahdi himself has admitted that the conspiracy continued until March 1999. Govt. Ex. 2 at 13, paragraph 9, at 17 paragraph 11 (in plea agreement, Mr. Mahdi certified to the truth of the allegation that conspiracy existed "[b]etween in or about March, 1997, and in or about March, 1999").

defendant and charged as a conspirator by appropriate factual allegations").

Ruling: Accepted and Incorporated.

50. BITS and Mr. Strome were co-conspirators of OTS and Mr. Mahdi in the above-referenced conspiracy. See paragraphs 8–13, 40, 42–43 above; see also Govt. Ex. 3 at 27, lines 13–14 (Mr. Mahdi identified "Mr. Strom" (sic) as "the co-conspirator in this case" during sworn testimony at the change of plea proceeding).

Ruling: Accepted and Incorporated.

51. The transactions described in Charges 2 and 3 were exports from the United States to Iran because Mr. Mahdi and OTS intended to transship the items in question to Iran via Canada from the time that they were exported from the United States. Similarly, the transaction described in Charge 4 was a solicited and attempted export from the United States to Iran because Mr. Mahdi and OTS intended that these items would be transhipped to Iran via Canada after they were exported from the United States. See 15 CFR 734.2(b)(6).

Ruling: Accepted and Incorporated.

52. By actions taken regarding the equipment purchased under OTS reference number 701–1230–TSI, Mr. Mahdi and OTS, on or about October 30, 1997,¹⁵ exported oil field equipment, which was subject to both the EAR and to OFAC's Iranian Transaction Regulations, from the United States through Canada to Iran, without prior authorization from OFAC, in violation of § 746.7 of the EAR, thereby each committing one violation of § 764.2(a) of the EAR—engaging in conduct prohibited by the EAR. See paragraphs 19–23, 25–26 above. Mr. Mahdi and OTS are each accordingly liable for the violation described in Charge 2.

Ruling: Accepted and Incorporated.

53. By actions taken regarding the equipment purchased under OTS reference number 702–1360–TSI, Mr. Mahdi and OTS, on or about February 9, 1998,¹⁶ exported oil field equipment,

¹⁵ Charge 2 states that the export occurred on or about October 30, 1997. The equipment in question was shipped from the United States to Canada on or about October 30, 1997, see paragraphs 22–23 above, and shipped from Canada to Iran in early November 1997. See paragraphs 25–26 above. Because this combination of shipments constituted an export from the United States to Iran, see paragraph 51 above, the date of export stated in Charge 2 is accurate.

¹⁶ The equipment in question was picked up by truck in Florida on or about February 9, 1998, and transported to Montreal, Canada. See paragraph 29 above. Charge 3 describes the export as taking place "on or about February 2, 1999" (the date on the Pars invoice). This one-week variance between the date as alleged and the date as established at trial is immaterial to the validity of the charge. See *Tasty Baking Co. v. NLRB*, 254 F.3d 114, 122 D.C. Cir.