

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
  
- v. - :  
  
SEYED AMIN GHORASHI SARVESTANI, : 13 Cr. 214 (PGG)  
  
Defendant. :  
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**GOVERNMENT'S SENTENCING MEMORANDUM**

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America

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- Of Counsel -

**PRELIMINARY STATEMENT**

The Government submits this memorandum in advance of the defendant's sentencing scheduled for August 14, 2013 and in response to the defendant's sentencing memorandum dated July 31, 2013. For the reasons set forth below, the Government respectfully submits that a sentence within the applicable United States Sentencing Guidelines ("U.S.S.G." or "Guidelines") range of 57 to 60 months' imprisonment would be sufficient but not greater than necessary to achieve the sentencing objectives enumerated in Title 18, United States Code, Section 3553(a).

**BACKGROUND**

**A. The Sanctions Against Iran**

The International Emergency Economic Powers Act ("IEEPA") gives the President broad authority to regulate international transactions in times of national emergency. See 50 U.S.C. § 1702(a)(1). IEEPA controls are triggered by an executive order declaring a national emergency based on an "unusual and extraordinary threat which has its source in whole or substantial part outside the United States, to the national security, foreign policy or economy of the United States." 50 U.S.C. § 1701.

In 1995 and again in 1997, President Clinton issued a series of three Executive Orders prohibiting, among other

things, the exportation, reexportation, sale, or supply, directly or indirectly, to Iran of any goods, technology, or services from the United States or by a United States person. See Exec. Orders 13059 (Aug. 19, 1997), 12959 (May 6, 1995), and 12957 (Mar. 15, 1995) (collectively the "Executive Orders"). President Clinton's Executive Orders directly referenced the "unusual and extraordinary threat" posed by Iran and directly targeted, among other things, petroleum development in Iran. See 60 Fed. Reg. 14615 (Mar. 17, 1995). Pursuant to this authority, the Department of the Treasury promulgated the Iranian Transaction Regulations ("ITR") followed by the Iranian Transactions and Sanctions Regulations, ("ITSR"), see 31 C.F.R. part 560. Those regulations prohibited the export of virtually all goods, technology, or services from the United States to Iran. They also prohibited the trans-shipment of goods from the United States to a third country for the purpose of re-export to Iran. (See generally Presentence Investigation Report ("PSR") ¶¶ 7-9).

On May 30, 2013, the Department of the Treasury for the first time created an exception to the embargo for certain specified "hardware and software. . . incident to personal communications." The exempted devices include mobile phones, satellite phones, modems, network interface cards, router

devices, laptop computers and other portable computing devices, and consumer satellite receiver-only technology.<sup>1</sup>

**B. The Defendant's Illegal Activities**

For years, the defendant operated multiple companies that regularly procured U.S.-made goods for Iranian companies, making the illegal sales by using transshipments through Singapore, Hong Kong, and the United Arab Emirates, thereby obscuring the goods' true destination.

The defendant served as a manager and part-owner of both Innovative Technology Systems ("ITS") and Skylinks FZC -- interrelated companies located in the United Arab Emirates. (PSR ¶¶ 10-11). The companies' principal business was procurement of goods for companies based in Iran, including U.S.-made goods. (PSR ¶¶ 13-15). Corporate documents revealed that the companies did millions of dollars in business transactions with Iran, and that sales of U.S.-made goods were a substantial part of that business. (PSR ¶¶ 15-16). For example, a company chart concerning Skylinks' business with a particular company in Iran ("Company-1") -- a company with which Skylinks appeared to have done over \$1 million in business in a single year -- described 32 products sold to Company-1 from 2008 to 2011, with at least 22 of the products sold being U.S.-made

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<sup>1</sup> The "General License" authorizing such exports is attached as Exhibit 5 to the defendant's sentencing memorandum.

goods. (PSR ¶¶ 15-16). Shipping documents, invoices, and other documents sent to employees of the companies revealed numerous other transactions in which the companies had arranged for U.S. made goods to be purchased on behalf of companies in Iran. (PSR ¶ 16).

Ghorashi was personally involved in transactions in which goods were purchased from U.S. suppliers and trans-shipped to companies in Iran. For instance, as part of a deal to purchase satellite technology and hardware from a company in the United States, Ghorashi signed a reseller agreement with the U.S. company agreeing that ITS would not export or re-export products or technologies in violation of U.S. law. (PSR ¶ 21). After a representative of the U.S. company drew his attention to the "reexport" provisions forbidding transshipment, Ghorashi explicitly acknowledged his obligations under the export law. (PSR ¶¶ 21(1)-(21(m))). Nonetheless, ITS purchased hundreds of thousands of dollars in equipment from the company, including satellite routers, which were then routed to Iran. In communications with members of his own company in connection with those deals, Ghorashi revealed his knowledge of these transshipments and their illegality, with Ghorashi cautioning his employees about the manner in which the relayed queries from the Iranian company to the U.S. supplier. (PSR ¶ 21(k)).

Other documents revealed Ghorashi's involvement in the purchase and shipment of beacon receivers and tracking controllers -- components of satellite systems that are used to position and monitor satellites and satellite antennae. (See PSR p. 10 n.2; p. 11 n.3). In connection with that transaction, Ghorashi was kept apprised by company employees about the status of the shipment of U.S.-made goods, including being advised that the goods had been seized by U.S. customs officials, who were seeking additional documentation regarding the ultimate destination of the satellite parts and being provided notice of the shipment's ultimate release, after ITS officials falsely represented to customs officials that they had no ultimate buyer for the satellite parts. (PSR ¶ 22). Ghorashi was similarly kept abreast of the status of other deals involving the trans-shipment of U.S. made goods to Iran. (See PSR ¶ 23).

### **C. Case History**

On October 3, 2013, Ghorashi was arrested on charges of conspiring to violate IEEPA, in violation of Title 50, United States Code, Section 1705. (See PSR ¶ 24). On May 8, 2013, Ghorashi waived indictment and pled guilty to the charge that he conspired to violate IEEPA in violation of Title 18, United States 371. As set forth in the Presentence Investigation Report, pursuant to U.S.S.G. 2M5.1(a)(1), the base offense level for the IEEPA conspiracy charge is 26. (PSR ¶ 28). An increase

in two levels is warranted based on the defendant's leadership role. (PSR ¶ 31). Three points are deducted for the defendant's timely acceptance of responsibility. (PSR ¶ 34). Accordingly, the total offense level is 25. (PSR ¶ 37). Because the defendant has no prior criminal history, the recommended range of imprisonment under the Sentencing Guidelines is 57 to 71 months, which is reduced to 57 to 60 months' due to the statutory maximum of five-years under Title 18, United States Code, Section 371. (PSR p. 27). Sentencing is scheduled for August 14, 2013.

#### **DISCUSSION**

The Government respectfully submits that a sentence of imprisonment within the Guidelines range is warranted, in light of the objectives set forth in Title 18, United States Code, Section 3553(a). The Government does not dispute that the defendant met with the Government on several occasions and sought to assist the Government by providing information in those meetings, or that this attempt, and the defendant's positive conduct in areas unrelated to the charged criminal scheme, are appropriately considered under Title 18, United States Code, Section 3553(a). But the Government respectfully submits that the sentence sought by the defendant here - ten months' imprisonment - would not adequately reflect the

seriousness of the offense or the need to promote respect for the law, to provide just punishment for the offense, and to afford adequate deterrence to criminal conduct. See 18 U.S.C. § 3553(a)(1), (2)(A)-(B).

First, as set forth above, the scale of the criminal activity in this case was significant. The defendants' companies arranged hundreds of thousands of dollars' worth of illegal sales of U.S.-made goods to Iran; they did so over the course of multiple years; and they did so using sophisticated methods designed to evade detection, such as trans-shipping goods through third countries and making false statements to customs officials regarding the goods' ultimate destination.

Second, the defendant's role at these companies makes the sentence that the defendant seeks unreasonable: Sarvestani was not an employee who became involved in an export scheme at the direction of others, but was rather an owner and manager of the companies engaged in flagrant violations of U.S. export laws. Moreover, as an entrepreneur who had succeeded in other businesses, the defendant was not pressed to break the law as a result of dire financial need; rather, he appears to have simply concluded that the rewards outweighed the risks. The Government respectfully submits that these characteristics heighten the need for a sentence that reflects the seriousness of the offense and provides adequate deterrence.



The recent changes to the law that the defendant describes in his submission do not justify a departure of the radical scale that the defendant seeks. While on May 30, 2013, the Department of the Treasury issued a general license permitting the export to Iran of specified technologies incident to personal communications, the relevance of these changes is very limited here. As the defendant acknowledges, all of his conduct predated these changes. Moreover, many of the charged illegal exports to Iran are not, in any event, transactions that would fall within the new exemptions. For instance, while the defendant suggests that he sold satellite parts to a company that thereafter provided consumer Internet services, the defendant's companies sold devices designed to *control* satellites, see PSR p. 10 n. 2; p. 11 n.3, not items within the narrow category of consumer-satellite receiver-only terminals and receiver equipment that is exempted under the new regulations, see Def't Ex. 5.

Similarly, the defendant's concerns regarding his immigration status in Singapore and Canada do not justify an extraordinarily lenient sentence for an extended course of criminal conduct. While the defendant expresses concern that he and his family may lose their legal status in Singapore as an indirect result of an extended period of incarceration, the defendant and his family have been granted Permanent Residency

Status in that country for five years, beginning on June 1, 2012 - in other words, permanent residency until mid-2017. (See Def't Ex. 9 ¶¶ 11-12). Moreover, nothing in the business-related program through which the defendant obtained Singaporean residency requires that he remain in the country while a resident or in order to renew his residency; rather, his status is contingent on investment of funds in Singapore and on the operation of a company in Singapore in accordance with the terms of a business plan provided to the Singaporean government. (See Def't Ex. 9 ¶¶ 25; 30). While the defendant may be better able to manage his company while in Singapore, the ten-month sentence that the defendant seeks is neither a legal nor a practical prerequisite for retaining his Singaporean status.<sup>2</sup>

Moreover, the defendant is not at all extraordinary in facing immigration-related challenges as a result of his criminal conduct, and those considerations do not ordinarily warrant substantial deviations from the Guidelines. As the Court is aware, large numbers of defendants who are permanent residents of the United States lose their resident status and are deported as a result of convictions for drug offenses or

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<sup>2</sup> The defendant also appears to have prospects of legal status in Canada. While the defendant represents that a deadline to present his passport in the country will occur on August 22, 2013, his submission sheds no light on whether he would be able to reapply for the same status if he does not present his passport in Canada before that date.

other aggravated felonies and face great personal hardship as a result. It is very uncommon for those consequences to result in a departure from the Guidelines. The Government respectfully submits that it would be inappropriate for the defendant to receive a radical departure from the Guidelines based upon the risk of a foreign immigration consequence that is far less certain than the immigration consequences routinely faced by defendants who receive no immigration-based departure.

**CONCLUSION**

For the reasons set forth above, the Government respectfully requests that the Court impose a sentence within the applicable Guidelines range.

Dated: New York, New York  
August 7, 2013

Respectfully submitted,

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