

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Criminal No. 12-278-01 (RMC)

v.

OMIDREZA KHADEMI,

Defendant.

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FILED

MAY 28 2013

Clerk, U.S. District and
Bankruptcy Courts

STATEMENT OF OFFENSE

Had this case gone to trial, the United States would have proven beyond a reasonable doubt that:

General Allegations

1. The defendant, Omidreza Khademi (hereinafter “KHADEMI” or “the defendant”) is an Iranian national who resides in the United Arab Emirates. He is the owner and managing director of Omid General Trading Company LLC (“OGTC”), which is located in Dubai, U.A.E. The business of OGTC was partially to arrange for the transshipment of goods to customers in Iran. Through OGTC, KHADEMI conspired to transfer U.S.-origin goods through third countries to Iran on behalf of Iranian procurement companies on at least four occasions between February 2010 and September 2011.

2. During the period of the conspiracy, Company A was an Iranian supply company (“co-conspirator A”), operated by Individual A, an Iranian citizen.

3. During the period of the conspiracy, Company B was another Iranian supply company (“co-conspirator B”), operated by Individual B, an Iranian citizen.

4. Both Company A and Company B were listed by the European Union on May 23,

2011, as entities involved in the procurement of components for the Iranian nuclear program.

The Iran Trade Embargo and the Iranian Transactions Regulations

5. The International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-1706, authorized the President of the United States (“the President”) to impose economic sanctions on a foreign country in response to an unusual or extraordinary threat to the national security, foreign policy, or economy of the United States when the President declared a national emergency with respect to that threat. Pursuant to the authority under the IEEPA, the President and the executive branch have issued orders and regulations governing and prohibiting certain transactions with Iran by U.S. persons or involving U.S.-origin goods.

6. Beginning with Executive Order No. 12170, issued on November 14, 1979, the President has found that “the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and declare[d] a national emergency to deal with that threat.”

7. On May 6, 1995, the President issued Executive Order No. 12959, adopting and continuing Executive Order No. 12170 (collectively, the “Executive Orders”), and 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. The Executive Orders authorized the United States Secretary of the Treasury to promulgate rules and regulations necessary to carry out the Executive Orders. Pursuant to this authority, the Secretary of the Treasury promulgated the Iranian Transaction Regulations (“ITR”), implementing the sanctions imposed by the Executive Orders.

8. The Iranian Transactions Regulations prohibit, among other things, the export, reexport, sale, or supply, directly or indirectly, of any goods, technology, or services from the United States or by a United States person, wherever located, to Iran or the Government of Iran, without prior authorization or license from the United States Department of the Treasury, through the Office of Foreign Assets Control (“OFAC”), located in the District of Columbia. These regulations further prohibit any transactions that evade or avoid or have the purpose of evading or avoiding any of the prohibitions contained in the Iranian Transactions Regulations, including the unauthorized exportation of goods from the United States to a third country if the goods are intended or destined for Iran.

9. On October 15, 2007, the IEEPA at 50 U.S.C. § 1705 provided in pertinent part:

(a) Unlawful acts

It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this chapter.

* * *

(c) Criminal penalty

A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) of this section shall upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

10. The Executive Orders, the IEEPA, and the ITR were in effect at all times relevant to this offense.

The Conspiracy To Export U.S.-Origin Goods To Iran And To Defraud The United States

The Unlawful Shipment Of A PCI Analog Board, Breakout Board, And Cables From A U.S.-Company To Iran (September 2010).

11. The conspiracy between the defendant and his co-conspirators began in February 2010.

12. During the period of the conspiracy, KHADEMI used the email address omiduae@emirates.net.ae to conduct business on behalf of OCTC.

13. In emails dated February 24, 2010, the defendant and co-conspirator A discussed the rates negotiated between KHADEMI and co-conspirators A and B as payment for the KHADEMI's agreement to arrange for the shipment of goods to them:

- "1) US\$ 00000 To US\$. 30,000.00 = 4% (Minimum Charge US\$. 500.00)
- 2) US\$ 30.001 To US\$ 50,000.00 = 3.00%
- 3) US\$ 50.001 To US\$ 100,000.00 = 2.50%
- 4) US\$ 101,000 To US\$ 200,000.00 = 2.00%
- 5) US\$ 200,001 To US\$ 300,000.00 = 1.50%
- 6) US\$ 300,001 To US\$ _____ = 1.00%

We have shipments from China, Taiwan, Europe and sometimes USA and the items are mostly electronic parts and Industrial Computers. I will be happy if you give us some information about your offices in UAE and China and how we can cooperate together."

14. In an email dated February 24, 2010, KHADEMI provided co-conspirator A with the name and address of a company located in Hong Kong (hereinafter "HK Company" and "HK Shipping Address") to use as the intermediary point for the transshipment of goods to Iran.

15. In August 2010, the defendant had discussions over email with co-conspirator A regarding the purchase of several items from a French company, to include a PCI Express Analog Input Board, a breakout board, and cables. The typical applications for these items include high density analog inputs, industrial robotics, acoustic sensor arrays, analog event capture, biometric signal analysis, and dynamic test systems.

16. The email chain reflecting these discussions began with a conversation between co-conspirator A and a representative from the French company during which co-conspirator A inquired about product pricing, and then confirmed the purchase. In these e-mails, co-conspirator A used an alias as well as an alias company name and email address.

17. In an e-mail dated August 6, 2010, co-conspirator A provided the French company with the HK Shipping Address that KHADEMI had provided to co-conspirator A by email on February 26, 2010. Co-conspirator A subsequently forwarded the email chain with the French company to KHADEMI.

18. On or about August 21, 2010, KHADEMI sent an email to co-conspirator A requesting more information about the use of the parts in order to speak to the French company. On that same day, co-conspirator A replied by email, "We have not informed the supplier that we are using them in Iran, just tell them it's for a research center in UAE for analyzing light spectrum, this is the best answer. In iran [*sic*] these items will be used for Tehran University Computer lab."

19. On or about August 24, 2010, co-conspirator A sent an email to KHADEMI informing him that KHADEMI need not contact the French company because they were switching to a different supplier.

20. KHADEMI knew that co-conspirators A and B attempted to hide both the end-user and end-use of the items from the French company by instructing the defendant to falsely claim that the items would be used at a research center in the U.A.E., when they were truly intended for use at Tehran University.

21. On or about September 8, 2010, co-conspirator A -- again by use of the alias name, company name, and email account -- caused an Alabama company to ship a PCI Express Analog Input Board, breakout board, and cables to the HK Shipping Address previously provided by KHADEMI. On September 8, 2010, the Alabama company emailed an invoice for the order to co-conspirator A and confirmed that the order had been shipped to the HK Company. The invoice listed the HK Company and HK Shipping Address in the "Ship to" field. The invoice listed the "Total Invoice Amount" as \$4580.00

22. On or about September 9, 2010, co-conspirator A forwarded his email correspondence with the Alabama company to KHADEMI, stating "Another load is shipped to HK, please be informed." The forwarded email included an attachment of the invoice from the U.S. company for the four items, which included the company's Alabama address. This order from the U.S. company was identical to the order that the defendant and co-conspirators A and B had explored with the French company in late August 2010. Therefore, KHADEMI already knew that these items were intended for end-use in Iran at Tehran University.

23. Records obtained from UPS Tracking and Delivery indicated that these items were shipped by the Alabama company to the HK Shipping Address on or about September 8, 2010.

24. In an e-mail dated September 12, 2010, co-conspirator A instructed KHADEMI to ship the computer items to co-conspirator A's attention at Company B in Tehran.

25. On or about September 18, 2010, KHADEMI caused the Hong Kong Company to ship the PCI Express Analog Input Board, breakout board and cables from Hong Kong to co-conspirator A in Tehran, Iran.

The Unlawful Shipment of 21 Rugged Panasonic Laptop Computers From A U.S. Company To Iran (September to November 2010).

26. On or about September 21, 2010, co-conspirator A sent an email to KHADEMI informing him, “for your information a shipment of 70,429\$ which is 21pcs of laptop is ready in US for shipment and we want to ship it HK. And we will not wait for any thing to mix with it and you can immediately ship to Iran.”

27. On or about October 5, 2010, co-conspirator A caused a California company to ship 21 rugged Panasonic laptop computers to the HK Company at the HK Shipping Address previously provided by KHADEMI. The shipment was delivered via Federal Express and was reflected in documents obtained from Federal Express. The computers had applications in the field of military operations, as they are moisture and dust resistant, vibration, shock and drop resistant, and have wide area wireless and are GPS capable.

28. In e-mails dated September 21, 2010, and October 10, 2010, co-conspirator A informed KHADEMI that the total price for the order of 21 Panasonic laptop computers was \$70,429.

29. On or about October 7, 2012, co-conspirator A sent KHADEMI an email instructing him to ship the 21 laptops to an address in Tehran, Iran and to send co-conspirator A an invoice for the shipment.

30. On or about November 24, 2010, KHADEMI caused the 21 rugged laptop computers to be shipped from Hong Kong Company to co-conspirators A and B in Iran and sent an e-mail to co-conspirator A and co-conspirator B “attach[ing] 2 files for 21 laptop charges.” On or about November 25, 2010, co-conspirator A replied by e-mail to KHADEMI, “Thanks for

your job in this case, we will proceed the payment during next week, kindly follow up for batteries, as we don't have any information about them.”

The Unlawful Shipment Of A U.S.-Origin Side Scan System From The U.A.E. To Iran (June to August 2011).

31. On or about August 29, 2011, co-conspirator A sent an email to KHADEMI stating, “Please find attached file as a shipment which is being shipped to HK.” The attached files consisted of a commercial invoice and a packing slip for a stainless steel towfish with added telemetry, a Side Scan System, and a kevlar coaxial tow cable from a company in the U.A.E. Both the invoice and the packing slip indicated “Country of Origin: USA.” The total amount listed on the invoice was €48,060, which equated approximately \$68,726. A Side Scan System was a small portable scan sonar system that was suitable for towing by small water craft and provided high resolution images. Its applications include, *inter alia*, mine countermeasures, mine-like target detection and classification of underwater IED's, and port and harbor security.

32. The forwarded email chain that KHADEMI received also indicated that co-conspirator A – using the same alias name, company name, and email address that he had previously used when securing purchases of U.S. origin goods – had provided the HK Company and HK Shipping Address to the U.A.E. company for shipment.

33. In an email dated June 16, 2011, which was part of the same email chain that co-conspirator A had forwarded to KHADEMI, co-conspirator A informed the U.A.E. company representative that the item was intended for “re-export . . . to china(Hongkong) as it will be used in one of the project [*sic*] there.”

34. Some time after August 30, 2011, defendant KHADEMI caused the Side Scan System to be shipped from Hong Kong Company to co-conspirator A in Tehran, Iran.

The Unlawful Shipment of Underwater Acoustic Transducer From A U.S.-Company To Iran (September 2011).

35. On or about September 8, 2011, co-conspirator A, again using an alias name, company name, and accompanying email address, caused a Ohio company to ship an underwater acoustic transducer to the Hong Kong company previously provided by the defendant. The underwater acoustic transducer was designed for general purpose military and scientific applications in an underwater environment.

36. On or about September 8, 2011, co-conspirator A forwarded his email correspondence with the Ohio company to KHADEMI, stating "Attached item is also sent to HK by UPS, please ask them to mix with the previous one and ship together to iran [sic]," and sending the UPS tracking number.

37. In the forwarded e-mail chain between co-conspirator A and the representative of the Ohio company dated July 28, 2011, the company representative asked co-conspirator A what use would be made of the unit, noting "This is a military type unit with no commercial sales." In an email dated August 3, 2011, co-conspirator A replied "That is used for a ecosystem analyzing project in HongKong for fish finding."

38. On or about September 8, 2011, the Ohio company shipped the transducer by UPS to the HK Company and the HK Address previously provided by the defendant. The invoice for the transducer, dated August 5, 2011, listed a total price of \$2,477.

39. On or about September 11, 2011, KHADEMI responded by email to co-conspirator A, stating that the shipment could not be joined with another shipment, and requesting the invoice and consignee details for the underwater acoustic transducer. On that same day, co-conspirator A responded by email, giving the Tehran, Iran address of Company B.

40. KHADEMI knew that the transducer originated in the United States and that co-conspirator A had falsely informed the U.S. company that the item was intended for use in Hong Kong, when KHADEMI knew that the item was to be shipped to Tehran, Iran.

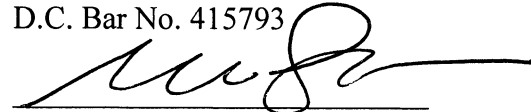
41. Some time after September 14, 2011, KHADEMI caused the transducer to be shipped from the HK Shipping Address to co-conspirator B in Iran.

42. At no time during the relevant time period did KHADEMI or OGTC or others on behalf of KHADEMI or OGTC apply for, receive, and possess, or cause others to apply for, receive, and possess a license from the Office of Foreign Assets Control ("OFAC"), located in the District of Columbia, to export any of the U.S.-origin goods referenced above from the United States to Iran.

Limited Nature of Statement of Offense

43. This proffer of evidence is not intended to constitute a complete statement of all facts known by defendant KHADEMI, but instead provides a sufficient factual predicate for his guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for defendant KHADEMI to plead guilty to Count I of the Indictment, that is, the charge of Conspiracy to Unlawfully Export U.S. Goods to Iran and to Defraud the United States, in violation of 18 U.S.C. § 371.

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY
D.C. Bar No. 415793




Mona N. Sahaf
Assistant United States Attorney
D.C. Bar No. 497854

Anthony Asuncion
Assistant United States Attorney
D.C. Bar No. 420822

Defendant KHADEMI's Stipulation and Signature

After consulting with my attorney, Erich Ferrari, and pursuant to the Plea Agreement entered into this day with the United States, I hereby stipulate that the above Statement of Offense is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

28, MAY, 13
Date

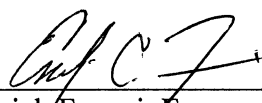


Omidreza Khademi
Defendant

Defendant KHADEMI's Counsel's Acknowledgment

I am counsel for the defendant, Omidreza KHADEMI. I have carefully reviewed the above Statement of Offense with my client. To my knowledge, the decision to stipulate to these facts is an informed and voluntary one.

5/28/13
Date



Erich Ferrari, Esq.
Counsel for Defendant Omidreza Khademi