

Judge James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GHOBAD GHASEMPOUR,

Defendant.

NO. CR18-80

**GOVERNMENT'S SENTENCING
MEMORANDUM**

The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, and Frederick Yette and Amy Larson, Special Assistant United States Attorneys for said District, respectfully submits this sentencing memorandum.

SENTENCING RECOMMENDATION

The government recommends that the Court sentence defendant Ghobad Ghasempour ("GHASEMPOUR") at or near the lower end of his recommended guideline range of 46 to 57 months of imprisonment, to be followed by one year of supervised release, subject to the terms recommended by Probation.

FACTUAL OVERVIEW

On April 19, 2018, GHASEMPOUR entered a guilty plea to one count of Conspiracy to Unlawfully Export U.S. Goods and Technology to Iran and to Defraud the United States, in violation of 18 U.S.C. § 371; 50 U.S.C. § 1705; and Code of Federal

1 Regulations Part 560.203 and 560.204. The criminal conduct that resulted in this
2 conviction is described in detail in the Statement of Facts section of the Plea Agreement,
3 and the government will not attempt to recount a full description of that conduct here.

4 We note, however, that GHASEMPOUR – for more than five years -- willfully
5 conspired with individuals in Iran, China, Portugal and Turkey to obtain sophisticated
6 technology manufactured in the United States and export that technology to Iran in
7 violation of U.S. sanctions against Iran. GHASEMPOUR initiated the conspiracy and
8 directed his Chinese coconspirator to establish front companies in China that he and his
9 coconspirators used to help them to accomplish their scheme. GHASEMPOUR and his
10 coconspirators also conspired with established companies in Portugal and Turkey, who
11 negotiated with U.S. companies to obtain U.S. technology for the benefit of the
12 coconspirators.

13 The technology GHASEMPOUR helped export, or attempt to export, to Iran in
14 violation of U.S. export control laws included: a thin film measurement system
15 manufactured by a California company, for a sales price of \$93,000; an inertial guidance
16 system test table manufactured by a North Dakota company, for a sales price of 550,040
17 Euros; and two types of thermal imaging cameras manufactured by an Oregon company,
18 for total sales of more than \$466,000. The technology described above has both
19 commercial and military uses. For example, the thin film measurement system is
20 essentially a microscopic tape measure that can be used to measure liquid coatings and
21 parts that are used in cell phones and missiles. The inertial guidance system test table can
22 be used to test the accuracy of gyroscopes that assist in flying commercial and military
23 airplanes. And the thermal imaging cameras can be used in commercial security systems
24 and military drones.

25 The Department of Commerce’s Bureau of Industry and Security (“BIS”)
26 promulgated the Export Administration Regulations (“EAR”), 15 C.F.R. §§ 730-774,
27 which contained restrictions on the export of goods outside of the United States. The
28 most sensitive items subject to EAR controls were identified on the Commerce Control

List, or “CCL,” set forth in Title 15, Code of Federal Regulations, part 774, Supplement Number 1. Items listed on the CCL were categorized by Export Control Classification Number (“ECCN”), each of which had export control requirements depending on destination, end use, and end user. Items categorized under ECCNs required a license for export based on a specific “reason for control.” The “reason for control,” in turn, determined the countries to which export of an item required a license.

Under the EAR, the inertial guidance system test table is categorized under ECCN 2B120, and it is controlled for Missile Technology (“MT”) and Anti-Terrorism (“AT”) reasons for export to Iran. There are two versions of the TAU 2 640 cameras GHASEMPOUR helped to export: a 9 Hz model and a 30 Hz model. The 9 Hz model is categorized under ECCN 6A993, and it is controlled for Anti-Terrorism (“AT”) reasons for export to Iran. The 30 Hz model is categorized under ECCN 6A003.b.4.b, and it is controlled for National Security (“NS”), Regional Stability (“RS”) and Anti-Terrorism (“AT”) reasons for export to Iran. In addition, the Thin Film Measurement System is categorized under ECCN 3A999.f, and it is controlled for Anti-Terrorism (“AT”) reasons for export to Iran.¹

SENTENCING GUIDELINES

There is no dispute as to the Sentencing Guidelines. GHASEMPOUR’s offense level is as follows:

Base Offense Level (USSG §2M5.1)	26
Acceptance of responsibility	-3
Total	23

¹ The coconspirators obtained a license to export the thermal imaging cameras through the Portuguese coconspirator, under the false claim that the Portuguese coconspirator was going to install the cameras in an African country. They obtained a license to export the inertial guidance system test table through the Portuguese coconspirator, under the false claim that the Portuguese coconspirator would be the end user, but that table never left the United States. The Thin Film Measurement System did not require an export license to the Netherlands, China or Turkey; however, it would have required a license for exportation to Iran, had the true end destination been known.

GHASEMPOUR does not have any prior criminal convictions. Therefore he is in criminal history category I, yielding a sentencing range of 46 to 57 months.

SECTION 3553 ANALYSIS

The government recommends a sentence at or near the lower end of the guideline range of 46 to 57 months, to be followed by one year of supervised release with the standard and special conditions recommended by U.S. Probation. This recommendation is supported by the sentencing factors set forth at 18 U.S.C. § 3553(a).

A. Nature and Circumstances of the Offense.

During the period of time when GHASEMPOUR was committing the offenses, the U.S. government had imposed sanctions that prohibited the export of U.S. goods, services and technology to Iran unless the government granted a license for that export. The sanctions had been imposed to protect the national security, foreign policy and economy of the U.S. from certain threats posed by the Iranian government. GHASEMPOUR was well-aware of the sanctions and that he was violating U.S. laws by facilitating the exportation of U.S. goods to Iran without a license. In fact, in an email dated July 3, 2012, GHASEMPOUR explained to his Chinese co-conspirator that when they were negotiating with U.S. companies to obtain products for their Iranian co-conspirator, they should not inform the U.S. companies that the products were for the Iranians because of the sanctions. The email appears below (all grammatical and formatting errors are in the original email):

Subject: Re: CISCO ORDER

From : Ghobad Ghasempour <ghobadgh@gmail.com >

Date: 7/3/2012 9:16 PM

To: "modojoex@gmail.com " <modojoex@gmail.com >

Hi brother,

Cisco is an American brand so they cannot sell directly to Iran. HP is the same too and we can buy it because we are dealing with dealer (who wants to sell and make money and does not care were the product go). If HP head office finds out officially they would block the deal and I am sure dealer would not tell them (and they wouldn't ask haha). Therefore, we must find a dealer for Cisco and

1 don't contact the corporation if possible (or don't tell them this is for Iranian market).

2 Take care,
3 Ghobad

4 Sent from my iPhone

5
6 In short, the criminal violation at issue in this case is a serious one, and
7 GHASEMPOUR knowingly and willingly participated in the criminal conspiracy to
8 export U.S. goods, services and technology to Iran without a license. GHASEMPOUR
9 and his codefendants established Chinese front companies, and used companies in
10 Portugal and Turkey, in order to conceal that the goods were actually being purchased
11 for Iranians.

12
13 **B. History and Characteristics of the Defendant.**

14 GHASEMPOUR does not have a criminal history. He is well-educated and has
15 been a successful salesman with two Canadian companies. However, he has used his
16 business acumen to conduct the criminal transactions described in the Indictment and
17 plea letter. It is unfortunate that the defendant has used his business skills to commit
18 crimes, but he was willing to accept the risk of being caught in order to make more
19 money.

20 GHASEMPOUR made that point clear, on February 14, 2016, during a text
21 message conversation with his Chinese coconspirator regarding the sale of thermal
22 imaging cameras to their Iranian coconspirator. They were discussing the need to work
23 smarter, not harder, on the deals they were making with their Iranian coconspirator, and
24 GHASEMPOUR commented that they needed a larger percentage of the deal, that is,
25 10%, considering the risk they were taking by violating the law. The Chinese
26 coconspirator agreed, and GHASEMPOUR responded: “Yes. Considering riSk” – an apt
27 code that captures GHASEMPOUR’s willingness to accept the “risk” of arrest in order to
28 make a bit more money. (*See* Exhibit 1, text message exchange dated 2/14/2016.)

GHASEMPOUR's greed caused him to ignore U.S. sanctions against Iran so that he could profit monetarily. Greed is a characteristic that leads many people to commit crimes to make money, and GHASEMPOUR is no different. He should therefore receive the punishment called for by the sentencing guidelines.

C. The Need for the Sentence to Reflect the Seriousness of the Offense, Promote Respect for Law, Deter Future Crimes, and Protect the Public.

The recommended sentence is necessary to reflect the seriousness of the offense. The sanctions against Iran are meant to protect the United States and its citizens from threats posed by the Iranian government. In large part, the sanctions are intended to prevent Iran from obtaining technology that can be used by its military – and each of the items GHASEMPOUR helped export to Iran could be useful to Iran in building weapons that could eventually be used against the U.S. and its citizens. Indeed, GHASEMPOUR knew that his Iranian coconspirator was connected to the Iranian Ministry of Defense.²

Clearly, GHASEMPOUR's crimes are serious and he deserves just punishment. But there is also a need to discourage others who knowingly and willingly violate the sanctions to obtain U.S. technology for Iran. There are many individuals, like GHASEMPOUR and his coconspirators, who engage in the business of obtaining a vast array of U.S. goods, services and technology for export to Iran without a license from the U.S. government. A strong sentence in this case will help to discourage others who

² In anticipation that the United Nations Security Council might loosen their arms embargo against Iran, GHASEMPOUR emailed a friend of his at VARD, an international shipbuilding company headquartered in Norway, to see if VARD might be interested in doing business with Iran if the sanctions actually were loosened. In that email, dated November 9, 2015, GHASEMPOUR noted that his "friend [that is, the Iranian coconspirator] has already received some very encouraging interest from the officials at MoD [that is, the Iranian Ministry of Defense] and they even asked us to go send a full portfolio etc and visit them and the ship yards" Later in the same email, GHASEMPOUR said that "our most promising short term opportunities will be in the defense sector." (*See* Exhibit 2.)

engage in similar criminal activities and promote respect for the laws governing exports from the United States.³

CONCLUSION

For the foregoing reasons, the government submits that it is reasonable and fair to impose a sentence within the range of 46 to 57 months of imprisonment, to be followed by one year of supervised release.

DATED: August 13, 2018

Respectfully submitted,

ANNETTE L. HAYES
United States Attorney

/s/ Frederick W. Yette

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³**Error! Main Document Only.** The Probation Office noted in Paragraph 70 of the Presentence Investigation Report that the defendant might be eligible for a downward departure because of his status as a deportable alien. *See, e.g., U.S. v. Charry Cubillos*, 91 F.3d 1342 (9th Cir. 1996); *Lizarraga-Lopez v. U.S.*, 89 F.Supp. 2d 1166 (S.D.Cal. 2000); *see also U.S. v. Smith*, 27 F.3d 649, 655 (D.C. Cir. 1994) (“the circumstances justifying a downward departure on account of the deportable alien’s severity of confinement may be quite rare.”). This is not the rare case in which a downward departure is warranted. There is no evidence that this defendant will suffer more severe conditions of incarceration for a substantial part of his sentence simply because of his status as a deportable alien. And even if there were some indication that his conditions would be more severe, “a court confident that the status will lead to worse conditions should depart only when persuaded that the greater severity is undeserved.” *Smith*, 27 F.3d at 655. Certainly, GHASEMPOUR’s family and financial circumstances are very difficult and deserving of a measure of sympathy. However, there are innumerable defendants facing similar, if not more difficult, family and financial circumstances, and who are also facing far more severe sentences.

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

/s/ Jenny Fingles

JENNY FINGLES

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IPT

EXHIBIT 1

Yes.

[REDACTED] Ghobad Ghasempour

2/14/2016 10:31:22 PM(UTC-8)

I want to tk R

[REDACTED] Joe [REDACTED]

2/14/2016 10:31:23 PM(UTC-8)

Or we will face more and more competition soon

[REDACTED] Ghobad Ghasempour

2/14/2016 10:31:35 PM(UTC-8)

But he said we will have much more chances soon.

[REDACTED] Joe [REDACTED]

2/14/2016 10:31:43 PM(UTC-8)

Really?

[REDACTED] Ghobad Ghasempour

2/14/2016 10:31:49 PM(UTC-8)

Yes.

[REDACTED] Joe [REDACTED]

2/14/2016 10:32:05 PM(UTC-8)

Bro r asked me to send pl for 5sets T

[REDACTED] Joe [REDACTED]

2/14/2016 10:32:13 PM(UTC-8)

This is for S1 customer

[REDACTED] Joe [REDACTED]

2/14/2016 10:32:27 PM(UTC-8)

Did you talk to him and ask him to include 10gm for us?

[REDACTED] Joe [REDACTED]

2/14/2016 10:32:39 PM(UTC-8)

This is very important and we should do from 1st order

[REDACTED] Ghobad [REDACTED]

2/14/2016 10:32:41 PM(UTC-8)

Send message to R at his kspt email

[REDACTED] Joe [REDACTED]

2/14/2016 10:32:51 PM(UTC-8)

Start from low margin

[REDACTED] Ghobad Ghasempour

2/14/2016 10:33:16 PM(UTC-8)

I agree bro. I didn't talk to him about T

[REDACTED] Joe [REDACTED]

2/14/2016 10:33:29 PM(UTC-8)

Bro I will talk to him when I go back. I don't want he thinks my 1st message is about this

[REDACTED] Joe [REDACTED]

2/14/2016 10:33:33 PM(UTC-8)

Quite asshole haha

[REDACTED] Ghobad Ghasempour

2/14/2016 10:33:45 PM(UTC-8)

I meant re-send your messages

[REDACTED] Joe [REDACTED]

2/14/2016 10:34:00 PM(UTC-8)





I see

[REDACTED] Ghobad Ghasempour

2/14/2016 10:34:14 PM(UTC-8)

I think he is using iPad (and gets iMessages sent to his email address account)

I go to bed now.

★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:34:38 PM(UTC-8)	
	Have a good day and safe flight		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:34:42 PM(UTC-8)	
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:34:47 PM(UTC-8)	
	Got it, pls talk to 10gm bro		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:34:53 PM(UTC-8)	
	We must push on both sides		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:35:00 PM(UTC-8)	
	I agree.		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:35:01 PM(UTC-8)	
	We can not work like ibc any more		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:35:05 PM(UTC-8)	
	We need 10%		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:35:10 PM(UTC-8)	
	Yes Reasonable		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:35:17 PM(UTC-8)	
	I will send him email later		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:35:29 PM(UTC-8)	
	Then You push hardly too		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:35:34 PM(UTC-8)	
	Good night bro		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:35:37 PM(UTC-8)	
	Yes. Considering ri\$K		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:35:52 PM(UTC-8)	
	Even for ISF order we need 10%		
★	[REDACTED] Ghobad Ghasempour	2/14/2016 10:35:57 PM(UTC-8)	
	Bye for now		
★	[REDACTED] Joe [REDACTED]	2/14/2016 10:36:01 PM(UTC-8)	
	Yes bro		
★	[REDACTED] Ghobad Ghasempour	2/16/2016 9:26:24 AM(UTC-8)	
	Have you receive any money?		
★	[REDACTED] Joe [REDACTED]	2/16/2016 9:26:26 AM(UTC-8)	
	I will focus on working now		



IPT

EXHIBIT 2

Subject: Fwd: Potential Opportunities - IR
From: Ghobad G <[REDACTED]@gmail.com>
Date: 11/9/2015 3:38 PM
To: [REDACTED]@gmail.com>

Hi Reza,

Please see the below email that I sent to my friend just now. I want them to clear their position and make a final decision so we know how to proceed. By the way, please read the section about JCPOA carefully as it is applicable to anything in this area.

Best regards,
G

----- Forwarded message -----

From: Ghobad G <[REDACTED]@gmail.com>
Date: Mon, Nov 9, 2015 at 3:29 PM
Subject: Potential Opportunities - IR
To: [REDACTED]@vard.com>

Hi [REDACTED],

Please see the below link on UN arms embargo on Iran and how the recent agreement (officially called the Joint Comprehensive Plan of Action (JCPOA)) will affect it. Based on this summary it seems that basically the UN Security Council will remove the blanket embargo and will decide on case by case basis as per below quote.

"Furthermore, all states will be allowed to participate in the supply of major conventional arms and related components and services to Iran provided that the Security Council decides in advance on a case-by-case basis to approve such supplies. This provision will be lifted five years after the JCPOA Adoption Day."

Obviously, a separate permission is needed from the Canadian government (which I don't think will be a major obstacle the way things are heading), but based on the above quote the UN permission is a must that and it could take sometime.

Therefore, I really suggest that your company consult a sanctions lawyer soon. My friend has already received some very encouraging interest from the officials at MoD and they even asked us to go send a full portfolio etc and visit them and the ship yards (with you and probably Dave), but I want to make sure that there is a reasonable chance of working in this area in the next year (after the JCPOA comes into effect). We will probably discover a lot more opportunities after meeting the clients in person and found out about their needs etc, but again we need to know about the range of reasonable possibilities in advance in order to avoid wasting time and money and creating frustration on all sides. Your company needs to make a decision first if this is an area of interest for them and then invest in consultations with some lawyers and experts (probably you have to also consult some Canadian consulting firms to explore the realms of possibilities) and then finally make the decision to move forward or not. If your company makes the decision to move forward then we will make necessary arrangements to travel to Iran and meet with the related top brass officials and visit shipyards.

Of course we will also peruse opportunities in the gas and oil field. In the upcoming fair my partner will visit all the attending domestic shipyards and promote your products and services in this field as well. However, our most promising short term opportunities will be in the defense sector. Please discuss this matter and what I suggested with other senior executives

of your company and let me know your decision one way or the other ASAP.

Best regards,
Ghobad



IPT