

23

FILED IN OPEN COURT

GBK/da

AUG 27 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

CHARLES R. DIARD, JR.
CLERK

UNITED STATES OF AMERICA

* CRIMINAL NO. 09-CR- DD186-WS

*

v.

* USAO NO. 09R00376

*

JACQUES MONSIEUR and
DARA FOTOUHI

* Violations: 18 U.S.C. § 371

*

22 U.S.C. § 2778

*

50 USC § 1705

*

31 CFR § 560

*

22 CFR § 120 et seq.

18 U.S.C. 1956(a)(2)(A)

18 U.S.C. § 2

18 U.S.C. § 554(a)

INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

1. Defendant Jacques Monsieur was born on March 31, 1953 in Belgium and currently resides in France. Monsieur has been active in arms trading since the late 1980 or early 1990s.

2. Defendant Dara FOTOUHI is an Iranian national currently living in France and has been actively working with the Iranian government to procure military items for the Iranian government.

3. In February of 2009, defendant Monsieur contacted an undercover U.S. Federal agent (hereinafter known as "U/C1"). During that contact, defendant Monsieur indicated to U/C1 that he wished to purchase engines for F-5 or C130 aircraft for

export to Iran. Thereafter, defendant Monsieur began having regular e-mail contact with U/C1. In the e-mails, defendant Monsieur requested engines and parts for the F-5 jet airplane for export to Iran. The engines for the F-5 are known as J85-21 models. The F-5 jets were widely used light supersonic fighter aircraft, designed and built by a U.S. company beginning in 1960s. The F-5 was designed to be a low-cost, low-maintenance fighter. These engines are the replacement engines for the F-5 jet fighter which was sold to Iran by the United States prior to the imposition of sanctions in 1995. The parts and engines requested by defendant Monsieur are controlled by the State Department and require a license.

SUMMARY OF LAW AND REGULATIONS

1. In furtherance of world peace and the security and foreign policy of the United States, the Arms Export Control Act (22 U.S.C. § 2778 *et seq.*) authorized the President of the United States to control the export of defense articles and defense services. The regulations which govern such exports are titled the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130). The ITAR contains a list of defense articles and defense services which are subject to control by these regulations. The list is called the United States Munitions List (USML) (22 C.F.R. § 121.1). At all times relevant to this Indictment, F5 fighter jet parts and engines, were designated on the USML. At all times relevant to this Indictment, the Department of State, Directorate of Defense Trade Controls, regulated the exportation of defense articles by, among other things, requiring persons to apply for and receive licenses or other written approvals before exporting defense articles. Such license applications had to identify the specific defense articles to be exported, the foreign consignee, and the end-user. At all times relevant to this

Indictment, it was the policy of the Department of State to deny licenses and other approvals for exports of defense articles destined for Iran.

2. Beginning in 1995, the United States has imposed export restrictions on Iran as a result of its sponsorship of international terrorism and active pursuit of weapons of mass destruction. Pursuant to the authority under the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. §§ 1701–1707, the United States has prohibited certain transactions with Iran by U.S. persons or involving U.S. goods through Presidential Executive Orders and corresponding federal regulations. IEEPA authorizes the President to impose unilateral economic sanctions, including export prohibitions, upon a presidential declaration of an unusual and extraordinary threat to national security caused by a foreign threat.

3. On August 19, 1997, under the authority of IEEPA and the National Emergency and Development Cooperation Act, President Clinton issued Executive Order 13059 to “deal with the unusual and extraordinary threat to national security, foreign policy, and economy of the United States” posed by the actions and policies of the Iranian Government. Executive Order 13059 prohibits, among other things: “the exportation, re-exportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran, including the exportation, re-exportation, sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that such goods, technology, or services are intended specifically for supply, transshipment, or re-exportation, directly or indirectly, to Iran or the Government of Iran; [and] ...any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate,

any of the prohibitions set forth in this Order.”

4. Subsequently, to implement Executive Order 13059, the United States Department of the Treasury, in consultation with the Secretary of State, promulgated the Iranian Transactions Regulations, codified at 31 C.F.R. Part 560. These regulations generally prohibit the export of goods or technology from the United States to Iran without having first obtained an export license from the United States Department of the Treasury, Office of Foreign Asset Control (“OFAC”).

5. More specifically, Section 560.204 prohibits (absent certain inapplicable exceptions): the exportation, re-exportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran, including the exportation, re-exportation, sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that: (a) such goods, technology, or services are intended specifically for supply, transshipment, or re-exportation, directly or indirectly, to Iran or the Government of Iran ...31 C.F.R. § 560.204. In addition, Section 560.203 prohibits [any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions contained [in the Iranian Transactions Regulations]...31 C.F.R. § 560.203.

6. At all times relevant to the facts set forth in this Indictment, the President has continued the national emergency with respect to Iran and Executive Order 13059, determining that the actions and policies of Iran continue to threaten the national security, foreign policy and economy of the United States.

COUNT ONE

1. Paragraphs 1 through 6 of the Introduction of this Indictment are hereby re-alleged and incorporated as though fully stated herein.

The Conspiracy

2. From on or about February 2009 continuing through on or about the date of this indictment, in the Southern District of Alabama, Southern Division, and elsewhere, the defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly and willfully combine, conspire, confederate and agree together, with each other and others known and unknown to the grand jury, to commit the following offenses against the United States, that is, to knowingly and willfully cause the export from the United States F-5 jet engines (GE) J85-21 and parts for the F-5 (EIF) jet fighter, defense articles designated on the United States Munitions List, without first having obtained from the Department of State a license for such export or written authorization for such export, in violation of Title 22, United States Code, Sections 2778(b)(2) and (c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1.

OVERT ACTS

3. In furtherance of the conspiracy and to effect the objects thereof, the defendants did perform, among others, the following overt acts:

- (a). On March 14, 2009, defendant Monsieur met with U/C1 in Paris, France and told U/C1 specifically that he wanted to acquire GE J85-21 engines and parts for the

F-5 jet fighter manufactured by Northrop Grumman.

- (b). On April 29, 2009, defendant Monsieur sent an email to U/C1 indicating he had received the final purchase order for the engines. In this message, defendant Monsieur indicated that U/C1 would be responsible for obtaining export documentation that the parties understood knew would falsely indicate that the end user would be in Colombia. The parties understood that once UC/1 delivered the items to Colombia, defendants Monsieur and FOTOUHI would be responsible for getting the items to the actual end user in Iran.
- (c). On May 22, 2009, defendants Monsieur and FOTOUHI met with U/C1 at a hotel in London, England. During this meeting defendant Monsieur introduced defendant FOTOUHI as his business associate and vouched for other illegal exports.
- (d). During the May 22, 2009 meeting in London, defendants Monsieur and FOTOUHI negotiated with UC/1 for the illegal export of J85-21 engines from the United States to Iran. During this negotiation, defendants Monsieur and FOTOUHI asked UC/1 if he could obtain an export license from the United States that falsely indicated the end user of the items would be located in Colombia. Defendants Monsieur and FOTOUHI told UC/1 that all he had to do was get the items to Colombia and that they would then be moved for ultimate shipment to Iran.
- (e). On June 29, 2009, defendant Monsieur sent an e-mail to U/C1 providing a purchase order of parts for the F-5 fighter from a front company for the

organization known as Trast Aero Space, located in Bishkek, Kyrgyzstan. These parts were to be located by U/C1 and exported illegally to the United Arab Emirates (UAE) for transshipment to Iran.

- (f). On July 16, 2009, defendant Monsieur and defendant FOTOUHI wired approximately \$110,000 from a bank in the UAE to a financial institution in Mobile, Alabama for the purchase of F-5 aircraft parts.
- (g). On July 16, 2009, defendant Monsieur telephoned and e-mailed U/C1 and indicated that he would be depositing \$300,000 as a down payment for the two J85-21 engines.
- (h). On August 7, 2009, defendant FOTOUHI sent an e-mail to defendant Monsieur and U/C1 indicating that the client wanted to cancel the order because of the delay in receiving the engine parts.
- (i). On August 7, 2009, defendant Monsieur contacted U/C1 via telephone and indicated that as long as a shipment was being sent by air it would be okay with the client.
- (j). On August 17, 2009, defendant Monsieur requested by e-mail information for the U/C1's contact in Colombia for forwarding the air craft parts from Colombia to the Arab Emirates and requested copies of the airways bills and receipts of the invoices. In addition, defendant Monsieur stated that the client would send an inspector with a passport and a down payment for U/C1 bank account after the engines were inspected.

- (k). On August 18, 2009, defendant Monsieur stated via telephone that he would wire the funds to ship and to tranship the aircraft parts and engines to the bank account of the shipper in Colombia.

All in violation of Title 18 United States Code Section 371.

COUNT TWO

1. Paragraphs 1 through 6 of the Introduction and Paragraphs 1 through 3 of Count One are hereby re-alleged and incorporated as though fully stated herein.
2. From on or about February 2009, and continuing through the date of this indictment within the Southern District of Alabama, Southern Division and elsewhere, the defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly and willfully combine, conspire, confederate and agree together, with each other and others known and unknown to the grand jury, cause to be exported from the United States to Iran, namely F-5 jet engines (GE) J85-21 and parts for the F-5 (EIF) jet fighter, without first having obtained from the U.S. Department of the Treasury's Office of Foreign Assets Control a license for such export or written authorization for such export, in violation of Title 50, United States Code, Section 1705, and Title 31, Code of Federal Regulations, Section 560.204.

COUNT THREE

1. Paragraphs 1 through 6 of the Introduction and Paragraphs 1 through 3 of Count One are hereby re-alleged and incorporated as though fully stated herein.
2. From on or about February 2009, and continuing through the date of this indictment within the Southern District of Alabama, Southern Division and elsewhere, the

defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly and willfully attempt to export and to cause the export of defense articles, namely GE J85-21 jet engines and F-5 jet fighter parts, to Iran, without first having obtained the required license and authorization from the United States Department of State, in violation of Title 22, United States Code, Section 2778 and Title 18, United States Code, Section 2.

COUNT FOUR

1. Paragraphs 1 through 6 of the Introduction and Paragraphs 1 through 3 of Count One are hereby re-alleged and incorporated as though fully stated herein.

2. From on or about February 2009, and continuing through the date of this indictment, within the Southern District of Alabama, Southern Division and elsewhere, the defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly and willfully attempt to export and to cause the export to Iran of goods, namely GE J85-21 jet engines and F-5 jet fighter parts to Iran, without first having obtained the required license and authorization from the United States Department of the Treasury's Office of Foreign Assets Control, in violation of Title 50, United States Code, Section 1705, Title 31, Code of Federal Regulations, Sections 560.203 and 560.204; and Title 18, United States Code, Section 2.

COUNT FIVE

1. Paragraphs 1 through 6 of the Introduction and Paragraphs 1 through 3 of Count One are hereby re-alleged and incorporated as though fully stated herein.

2. From on or about February 2009, and continuing through the date of this indictment, within the Southern District of Alabama, Southern Division and elsewhere, the defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly and willfully attempt to export and to cause the export to Iran of goods, namely GE J85-21 jet engines and F-5 jet fighter parts to Iran, without first having obtained the required license and authorization from the United States Department of the Treasury's Office of Foreign Assets Control, in violation of 22 U.S.C. § 2778, all in violation of Title 18, United States Code, Section 554(a) and 2.

COUNT SIX

1. Paragraphs 1 through 6 of the Introduction and Paragraphs 1 through 3 of Count One are hereby re-alleged and incorporated as though fully stated herein.

2. On or about July 16, 2009 in the Southern District of Alabama, Southern Division and elsewhere, the defendants,

**JACQUES MONSIEUR and
DARA FOTOUHI**

did knowingly transfer and transmit and attempt to transfer and transmit funds, that is \$110,000 USD from a place outside the United States, that is the United Arab Emirates, to a place in the United States, that is Mobile, Alabama, with the intent to promote the carrying on of specified unlawful activity, that is, violations of the Arms Export Control Act, 22 U.S.C. § 2778, and the International Emergency Economic Powers Act, 50 U.S.C. § 1705, all in violation of Title 18,

United States Code, Sections 1956(a)(2)(A) and 2.

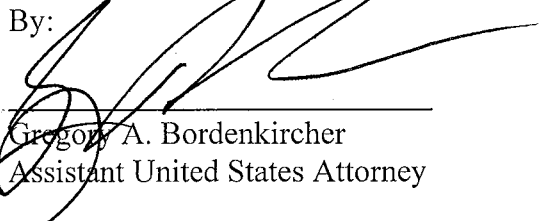
A TRUE BILL




UNITED STATES GRAND JURY
SOUTHERN DISTRICT OF ALABAMA

EUGENE A. SEIDEL
ACTING UNITED STATES ATTORNEY

By:



Gregory A. Bordenkircher
Assistant United States Attorney



MARIA E. MURPHY
Assistant United States Attorney
Chief, Criminal Division

AUGUST 2009