

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Aldrich Hazen Ames, Also Known as "Kolokol" and as "K"; Order Denying Permission To Apply for or Use Export Licenses

Aldrich Hazen Ames, also known as "Kolokol" and as "K" currently incarcerated at: Allenwood USP, Inmate Number 40087-083, P.O. Box 3500, White Deer, Pennsylvania 17887.

On April 24, 1994, Aldrich Hazen Ames, also known as "Kolokol" and as "K" (Ames), was convicted in the United States District Court for the Eastern District of Virginia on, *inter alia*, once count of violating Section 794(c) of the Espionage Act (18 U.S.C.A. §§ 792-799 (1976 & Supp. 1998)). Ames was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the intelligence services of the Union of Soviet Socialist Republics (U.S.S.R.) and later Russia, to knowingly and unlawfully communicate, deliver, and transmit to a foreign government, that is to U.S.S.R. and Russia, and to representatives, officers, and agents thereof, documents, writings, and information relating to the national defense of the United States with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the U.S.S.R. and Russia.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (the Act),¹ provides that, at the discretion of the Secretary of Commerce,² no person convicted of violating Sections 793, 794, or 798 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently

codified at 15 CFR parts 730-774 (1998) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Sections 793, 794, or 798 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Ames's conviction for violating Section 793(c) of the Espionage Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Ames permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on April 24, 2004. I have also decided to revoke all licenses issued pursuant to the Act in which Ames had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until April 24, 2004, Aldrich Hazen Ames, also known as "Kolokol" and as "K," currently incarcerated at: Allenwood USP, Inmate Number 40087-083, P.O. Box 3500, White Deer, Pennsylvania 17887, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any

other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Ames by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR. 44121, August 17, 1998), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

V. This Order is effective immediately and shall remain in effect until April 24, 2004.

VI. A copy of this Order shall be delivered to Ames. This Order shall be published in the **Federal Register**.

Dated: March 23, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

Order Denying Permission To Apply for or Use Export Licenses; Action Affecting Export Privileges; Harold J. Nicholson, Also Known as "Nevil R. Strachey" and as "Batman"

In the Matter of: Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman" currently incarcerated at: Sheridan Federal Correction Institute, Inmate Number 49535-083, 27072 Ballston Road, Sheridan, Oregon 97378, and with an address at: 1699 North Terry Sp 161, Eugene, Oregon 97492.

On June 5, 1997, Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman" (Nicholson), was convicted in the United States District Court for the Eastern District of Virginia on one count of violating Sections 794(a) and (c) of the Espionage Act (18 U.S.C.A. §§ 792-799 (1976 & Supp. 1998)). Nicholson was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, including officers of the intelligence services of the Russian Federation, to knowingly and unlawfully communicate, deliver, and transmit, and attempt to communicate, deliver, and transmit, to representatives of a foreign government, specifically the Russian Federation, directly or indirectly, documents, photographic negatives and information relating to the national defense of the United States, with the intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the Russian Federation.

Section 11(h) of the Export Administration of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) the Act),¹ provides that, at the discretion of

the Secretary of Commerce,² no person convicted of violating Sections 793, 794, or 798 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 C.F.R. Part 730-774 (1998)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Sections 793, 794, or 798 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Nicholson's conviction for violating Sections 794(a) and (c) of the Espionage Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Nicholson permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on June 7, 2007. I have also decided to revoke all licenses pursuant to the Act in which Nicholson had an interest at the time of his conviction.

Accordingly, it is hereby
Ordered

I. Until June 7, 2007, Harold J. Nicholson, also known as "Nevil R. Strachey" and as "Batman," currently incarcerated at: Sheridan Federal Correction Institute, Inmate Number 49535-083, 27072 Ballston Road, Sheridan, Oregon 97378, and with an address at: 1699 North Terry Sp 161, Eugene, Oregon 97492, may not, directly or indirectly, participate in any way, in

any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Apply for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation,

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (63 FR 44121, August 17, 1998), continued the Export Administration Regulations in effect under

the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.