

Notices

Federal Register

Vol. 82, No. 177

Thursday, September 14, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Ambar Esthela Morales, Inmate Number: 42245–408, FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, TX 76127;

On March 23, 2016, in the U.S. District Court for the District of Arizona, Ambar Esthela Morales (“Morales”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Morales was convicted of knowingly and willfully attempting to export from the United States to Mexico defense articles designated on the United States Munition List, namely, 7,942 rounds of 7.62 x 39mm caliber ammunition, without the required U.S. Department of State license. Morales was sentenced to three years in prison, three years of supervised release, and a \$100 assessment.

Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”) ¹ provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation,

license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of her conviction.

BIS has received notice of Morales’s conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Morales to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Morales.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Morales’s export privileges under the Regulations for a period of five years from the date of Morales’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Morales had an interest at the time of her conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until March 23, 2021, Ambar Esthela Morales, with a last known address of Inmate Number: 42245–408, FMC Carswell, Federal Medical Center, P.O. Box 27137, Fort Worth, TX 76127, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives (“the Denied Person”), 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, 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 engaging in any other activity subject to the Regulations; or

C. Benefitting 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 from any other activity subject to the Regulations.

Second, 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 for 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.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscode.house.gov>)) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Morales by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Morales may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Morales, and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 23, 2021.

Dated: September 8, 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017-19526 Filed 9-13-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Dmitrii Karpenko, a/k/a Simon Fox, Pavlova St 11-75, Nevinnomyssk, Stavropol Region, Russia; Order Denying Export Privileges

On April 28, 2017, in the U.S. District Court for the Eastern District of New York, Dmitrii Karpenko, a/k/a Simon Fox (“Karpenko”) was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) (“IEEPA”). Specifically, Karpenko was convicted of violating Section 206 of IEEPA, 50 U.S.C. 1705, by willfully conspiring with others to export from the United States to Russia microelectronics items controlled pursuant to the Export Administration Regulations (“EAR” or “Regulations”),¹

and under the jurisdiction of the Bureau of Industry and Security (“BIS”), U.S. Department of Commerce (“DOC”), without the required BIS/DOC license. Karpenko was sentenced to time served and an assessment of \$100.00.

Section 766.25 of the Regulations provides, in pertinent part, that “[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b))[]; or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that BIS’s Office of Exporter Services may revoke any BIS licenses previously issued pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of his conviction.

BIS has received notice of Karpenko’s conviction for violating IEEPA, and has provided notice and an opportunity for Karpenko to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Karpenko.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Karpenko’s export privileges under the Regulations for a period of five (5) years from the date of Karpenko’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Karpenko had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until April 28, 2022, Dmitrii Karpenko, a/k/a Simon Fox, with a last known address of Pavlova Street 11-75, Nevinnomyssk, Stavropol Region, Russia, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied

Person”), 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, 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 engaging in any other activity subject to the Regulations; or

C. Benefitting 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 from any other activity subject to the Regulations.

Second, 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,

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015)) (available at <http://uscode.house.gov/>) (“EAA” or “the Act”). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International

Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).