

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF INDUSTRY AND SECURITY
WASHINGTON, D.C. 20230

In the Matter of:)
)
Shavkat Abdullaev)
Inmate Number: 73083-279)
Moshannon Valley Correctional Institution)
555 Geo Drive)
Philipsburg, PA 16866)

AMENDED ORDER DENYING EXPORT PRIVILEGES

On December 1, 2016, in the U.S. District Court for the Eastern District of New York, Shavkat Abdullaev (“Abdullaev”) was convicted of violating the International Emergency Economic Powers Act (50 U.S.C § 1701, *et seq.* (2012)) (“IEEPA”). Specifically, Abdullaev was convicted of knowingly and intentionally exporting from the United States to Russia microelectronics without the required U.S. Department of Commerce licenses. Abdullaev was sentenced to 36 months in prison, two years of supervised release, and a \$400 assessment.

On December 31, 2018, I issued an Order denying Abdullaev’s export privileges pursuant to Section 766.25 of the Export Administration Regulations (“EAR” or “Regulations”), for a period of five (5) years from the date of his conviction.¹ In

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2018). The Regulations originally issued under the Export Administration Act of 1979, as amended, 50 U.S.C. §§ 4601-4623 (Supp. III 2015) (“EAA”), which lapsed on August 21, 2001. The President, through Executive Order 13,222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2018 (83 Fed. Reg. 39,871 (Aug. 13, 2018)), continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, *et seq.* (2012) (“IEEPA”). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, Title XVII, Subtitle B of Pub. L. No. 115-232, 132 Stat. 2208 (“ECRA”). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all rules and

addition, pursuant to Section 750.8 of the Regulations, the Order also revoked any licenses issued by the Bureau of Industry and Security (“BIS”) in which Abdullaev had an interest at the time of his conviction.

Prior to issuance of the December 31, 2018 Order, BIS, in accordance with Section 766.25 of the Regulations, provided Abdullaev notice of the proposed action and an opportunity to make a written submission opposing it. Unknown to BIS at the time, Abdullaev had mailed a submission, dated December 19, 2018, opposing the proposed action. Due apparently to the partial U.S. Government shutdown, BIS did not receive Abdullaev’s submission until January 30, 2019. It is possible that, but for the shutdown, the submission may have been received by BIS in timely fashion.

In light of the foregoing, I have reviewed and considered Abdullaev’s submission² and the record as a whole. Based upon review and consideration Abdullaev’s submission and all available facts, in addition to my consultations with BIS’s Office of Export Enforcement and its Director, I hereby affirm my decision denying Abdullaev’s export privileges under the Regulations for a period of five years from the date of Abdullaev’s conviction, and revoking any BIS-issued licenses in which Abdullaev had an interest at

regulations that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA.

² In his one-page submission, Abdullaev ultimately contended that he did not intend to violate or circumvent the law and that his conviction was accordingly on appeal. His conviction has since been affirmed by the U.S. Court of Appeals for the Second Circuit, by summary order dated February 7, 2019. *United States v. Abdullaev*, No. 17-104-cr (L), 2019 U.S. App. LEXIS 3772 (2d Cir. Feb. 7, 2019) (summary order). In affirming his conviction, the Second Circuit held “that there was ample evidence from which the jury could conclude that Abdullaev acted with knowledge that his conduct was unlawful when he prepared fraudulent documentation for each charged export.” *Id.* at *5-*6.

the time of his conviction. Thus, in sum, the terms of the December 31, 2018 Order are hereby affirmed, except as amended herein to reflect receipt and consideration of Abdullaev's written submission.

Accordingly, it is hereby **ORDERED**:

First, from the date of this Order until December 1, 2021, Shavkat Abdullaev with a last known address of Inmate Number: 73083-279, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866, 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

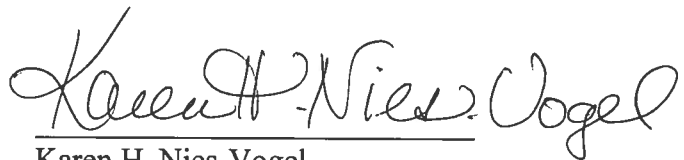
purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

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 Abdullaev 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, Abdullaev 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 Abdullaev and shall be published in the *Federal Register*.

Sixth, this Order is effective immediately and shall remain in effect until December 1, 2021.



Karen H. Nies-Vogel
Director
Office of Exporter Services

Issued this 8th day of March 2019.