

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

In the Matter of:)
)
Zhan Gao)
12731 Mill Heights)
Herndon, VA 20171)
)
Respondent:)
)
and)
)
Technology Business Services)
12731 Mill Heights)
Herndon, VA 20171)
)
University Laboratories)
12731 Mill Heights)
Herndon, VA 20171)
)
Allways, Inc.)
12731 Mill Heights)
Herndon, VA 20171)
)
Donghua Xue)
12731 Mill Heights)
Herndon, VA 20171)
)

Related Persons)

ORDER DENYING EXPORT PRIVILEGES

A. Denial of Export Privileges of Zhan Gao

On March 5, 2004, in the U.S. District Court in the Eastern District of Virginia, Zhan Gao (“Gao”) was convicted of two felonies, including one violation of the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) (“IEEPA”) and one violation of the Internal Revenue Code (26 U.S.C. § 7206 (2000)). As to the IEEPA count, Gao was found guilty of knowingly and willfully having exported and caused to be exported from the

United States to the People's Republic of China, 80 microprocessors, which were Commerce Control List items, without obtaining the required license from the Department of Commerce. These items were controlled for national security reasons for export to China and valued at approximately \$500,000. Gao was sentenced to seven months in prison.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. §§ 2401-2420 (2000)) ("Act")¹ and Section 766.25 of the Export Administration Regulations² ("Regulations") provide, in pertinent part, that "[t]he Director of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny export privileges of any person who has been convicted of a violation of . . . IEEPA," for a period not to exceed 10 years from the date of conviction. 15 C.F.R. sections 766.25(a) and (d). In addition, Section 750.8 of the Regulations states that BIS's Office of Exporter Services may revoke any BIS licenses previously issued in which the person had an interest in at the time of her conviction.

¹ From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45273, August 5, 2005), has continued the Regulations in effect under the IEEPA.

² The Regulations are currently codified at 15 C.F.R. Parts 730-774 (2005).

I have received notice of Gao's conviction for violating the IEEPA, and have provided notice and an opportunity for Gao to make a written submission to the Bureau of Industry and Security as provided in Section 766.25 of the Regulations. Having received no submission from Gao, I, following consultations with the Export Enforcement, including the Director, Office of Export Enforcement, have decided to deny Gao's export privileges under the Regulations for a period of 10 years from the date of Gao's conviction.

B. Denial of Export Privileges of Related Persons

In addition, pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, may take action to name persons related to the Respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business in order to prevent evasion of the Order. On March 18, 2005, I gave notice to Technology Business Services, University Laboratories, Allways, Inc. and Donghua Xue, Gao's husband, notifying them that their export privileges under the Regulations could be denied for up to 10 years as BIS believed these entities were related to Gao and including them in the Gao Order was necessary to prevent evasion. The basis for considering the addition of these entities was the fact that Gao had used these entities to conduct the illegal business that was subject of the criminal conviction and all are operated out of her home in Virginia.

Donghue Xue responded to the notification and did not raise any objections to naming the above referenced related persons. I have therefore decided to name Technology Business Services, University Laboratories, Allways, Inc. and Donghua Xue as related persons to Zhan Gao, thereby denying their export privileges as well.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Gao and Technology Business Services, University Laboratories, Allways, Inc. and Donghua Xue had an interest at the time of Gao's conviction. The 10-year denial period ends on March 5, 2014.

Accordingly, it is hereby

ORDERED

- I. Until March 5, 2014, Zhan Gao, 12731 Mill Heights, Herndon, VA 20171, and when acting for or on her behalf, her employees, agents or representatives, ("the Denied Person") and the following persons related to the Denied Person as defined by Section 766.23 of the Regulations, Technology Business Services, University Laboratories, Allways, Inc. and Donghua Xue, all at 12731 Mill Heights, Herndon, Virginia 20171, and when acting for or on his or their behalf, his or their employees, agents or representatives, ("the Related Persons") (together, the Denied Person and the Related Persons are "Persons Subject To This Order") 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. 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 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 Persons Subject To This Order any item subject to the Regulations;
 - B. Take any action that facilitates the acquisition or attempted acquisition by the Persons Subject To This Order 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 Persons Subject To This Order 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 Persons Subject To This Order of any item subject to the Regulations that has been exported from the United States;

- D. Obtain from the Persons Subject To This Order 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 Persons Subject To This Order, or service any item, of whatever origin, that is owned, possessed or controlled by the Persons Subject To This Order 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. In addition to the Related Persons named above, 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 Gao by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order if necessary to prevent evasion of the 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.

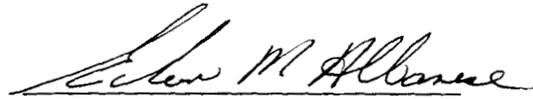
V. This Order is effective immediately and shall remain in effect until March 5, 2014.

VI. In accordance with Part 756 of the Regulations, Gao and any of the Related Persons 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.

VII. A copy of this Order shall be delivered to Gao and each Related Person. This Order shall be published in the Federal Register.

Date: December 14, 2005



Eileen M. Albanese
Director
Office of Exporter Services