

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

In the Matter of:)
)
George Charles Budenz II)
94394-198)
FDC SEATAC)
Federal Detention Center)
P.O. Box 13900)
Seattle, WA 98198)
)
and with an address at:)
)
25143 Jack Rabbit Acres)
Escondido, CA 92026)
)
Respondent:)
)
and)
)
Richard Scott Tobey)
42079 Humber Drive)
Temecula, CA 92591)
)
)

Related Person)

ORDER DENYING EXPORT PRIVILEGES

A. Denial of Export Privileges of George Charles Budenz II

On July 19, 2006, in the U.S. District Court in the Southern District of California, following a plea of guilty, George Charles Budenz II (“Budenz” or “Respondent”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. §§ 2778 (2000)) (“AECA”). Budenz pled guilty to knowingly and willfully exporting and causing to be exported from the United States to Malaysia and Belgium military aircraft parts which were designated as defense articles on the United States Munitions List, without having first obtained a license from the

Department of State for such export, or other written authorization for such an export. Budenz was sentenced to 36 months imprisonment and fined \$10,000, followed by three years of supervised release.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C. app. §§ 2401-2420 (2000)) (the "Act")¹ and Section 766.25 of the Export Administration Regulations ("Regulations")² 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 . . . Section 38 of the Arms Export Control Act," for a period not to exceed 10 years from the date of conviction. 15 C.F.R. §§ 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 his conviction.

I have received notice of Budenz's conviction for violating the AECA, and have provided notice and an opportunity for Budenz 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 Budenz, I, following consultations with the Office of Export Enforcement, including its Director, have decided to deny Budenz's export privileges under the Regulations for a period of five years from the date of Budenz's conviction.

¹ 50 U.S.C. app. §§ 2401-2420. 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 3, 2006 (71 Fed. Reg. 44551, Aug. 7, 2006), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § § 1701-1706 (2000)) ("IEEPA").

² The Regulations are currently codified at 15 C.F.R. Parts 730-774 (2007).

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. I gave notice to Richard Scott Tobey (“Tobey”), notifying him that his export privileges under the Regulations could be denied for up to 10 years as BIS believes that he is related to Arif Ali Durrani (“Durrani”) and Budenz and including him in an Order is necessary to prevent evasion. I have decided to include Tobey in the Budenz Order. The basis for naming Tobey to the Budenz Order is that Tobey pled guilty to conspiracy to violate the AECA, in violation of 18 U.S.C. § 371, for conspiring to export controlled military aircraft parts to the United Arab Emirates and Canada without the required licenses from the Department of State. Tobey was placed on probation for five years and fined \$10,000.00. Based upon these facts, Tobey is related to Budenz by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business and he needs to be named to any Budenz Denial Order to prevent evasion of it.

Having received no submission from Tobey, I have decided, following consultations with the Office of Export Enforcement, including its Director, to name Tobey as a related person to the Budenz Denial Order, thereby denying his export privileges for five years from the date of Budenz’s conviction.

I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Budenz and Tobey had an interest at the time of Budenz's conviction. The five-year denial period ends on July 19, 2011.

Accordingly, it is hereby

ORDERED

I. Until July 19, 2011, George Charles Budenz II, 94394-198, FDC SEATAC, Federal Detention Center, P.O. Box 13900, Seattle, WA 98198, and with an address at: 25143 Jack Rabbit Acres, Escondido, CA 92026, and when acting for or on his behalf, his employees, agents or representatives, ("the Denied Person") and the following person related to the Denied Person as defined by Section 766.23 of the Regulations, Richard Scott Tobey, 42079 Humber Drive, Temecula, CA 92591, and when acting for or on his behalf, his employees, agents or representatives, ("the Related Person") (together, the Denied Person and the Related Person 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 Person 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 Budenz 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 July 19, 2011.

VI. In accordance with Part 756 of the Regulations, Budenz 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. In accordance with Part 756 of the Regulations, Tobey 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.

VIII. A copy of this Order shall be delivered to Budenz and the Related Person. This Order shall be published in the Federal Register.

Date: JUN - 9 2007



Eileen M. Albanese
Director
Office of Exporter Services