

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

In the Matter of:)
)
Peter Gromacki)
88 White Bridge Road)
Middletown, NY 10940)
)
Respondent.)
)
JEN Fibers, LLC)
88 White Bridge Road)
Middletown, NY 10940)
)
Performance Engineered Nonwovens, LLC)
88 White Bridge Road)
Middletown, NY 10940)
)

Related Persons.)

ORDER DENYING EXPORT PRIVILEGES

A. Denial of Export Privileges of Peter Gromacki

On November 26, 2013, in the U.S. District Court for the Southern District of New York, Peter Gromacki (“Gromack”), was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)) (“IEEPA”). Specifically, Gromacki unlawfully, willfully and knowingly exported, and caused to be exported from the United States T700 carbon fiber, an item subject to the Export Administration Regulations, to China without obtaining the required approval from BIS. Gromacki was sentenced to three months of imprisonment, three years of supervised release, a \$300 assessment, and a \$5,000.00 criminal fine.

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, the EAR, of 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 C.F.R. § 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to ten (10) years from the date of the conviction. 15 C.F.R. § 766.25(d); *see also* 50 U.S.C. app. § 2410(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 in which the person had an interest in at the time of his conviction.

BIS received notice of Gromacki’s conviction for violating the IEEPA, and has provided notice and an opportunity for Gromacki to make a written submission to BIS, as

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2015). The Regulations are issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401-2420 (2000)) (“the EAA” or “the Act”). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 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 7, 2014 (79 Fed. Reg. 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. § 1701, *et seq.* (2006 & Supp. IV 2010)).

provided in Section 766.25 of the Regulations. BIS received a submission from Gromacki. Based upon my review and consideration of that submission, and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Gromacki's export privileges under the Regulations for a period of ten (10) years from the date of Gromacki's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Gromacki had an interest at the time of his conviction.

B. Denial of Export Privileges of Related Persons JEN Fibers LLC and Performance Engineered Nonwovens, LLC

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may, in order to prevent evasion of a denial order, make a denial order applicable not only to the respondent, but also to other persons related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.

As provided in Section 766.23 of the Regulations, BIS gave notice to JEN Fibers, LLC ("JEN Fibers") and Performance Engineered Nowovens, LLC ("Performance Engineered") that its export privileges under the Regulations could be denied for up to ten (10) years due to its relationship with Gromacki and that BIS believed that naming JEN Fibers and Performance Engineered as persons related to Gromacki would be necessary to prevent evasion of a denial order imposed against Gromacki. In providing such notice, BIS gave JEN Fibers and Performance Engineered an opportunity to oppose their addition to the Gromacki Denial Order as related parties.

Having received and reviewed a submission from Gromacki, I have decided, following consideration of that submission and consultations with BIS's Office of Export Enforcement, including its Director, to include name JEN Fibers and Performance Engineered as Related Persons and make this Denial Order applicable to JEN Fibers and Performance Engineered, thereby denying their export privileges for ten (10) years from the date of Gromacki's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which JEN Fibers and Performance Engineered had an interest at the time of Gromacki's conviction. The 10-year denial period is scheduled to end on November 26, 2023.

Gromacki is the owner of JEN Fibers and Performance Engineered and operates both businesses from his home. Therefore, JEN Fibers and Performance Engineered are related to Gromacki within the meaning of Section 766.23. BIS also has reason to believe that JEN Fibers and Performance Engineered should be added as a related persons in order to prevent evasion of this Denial Order.

Accordingly, it is hereby **ORDERED**:

First, from the date of this Order until November 26, 2023, Peter Gromacki, with a last known address of 88 White Bridge Road, Middletown, NY 10940, and when acting for or on his behalf, his successors, assigns, employees, agents, or representatives, and JEN Fibers LLC and Performance Engineered Nonwovens, LLC, with a last known address of 88 White Bridge Road, Middletown, NY 10940, and when acting for or on their behalf, their successors, assigns, directors, officers, employees, agents, or representatives (each as "Denied Person" and collectively the "Denied Persons") 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.

Second, no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a 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 a 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 a Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from a 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 a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a 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, 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 individual, firm, corporation, or other association or organization or other person related to a Denied Person 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 if necessary to prevent evasion of this Order.

Fourth, in accordance with Part 756 and Section 766.25(g) of the Regulations, Gromacki may file an appeal of the issuance of this Order against him with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the

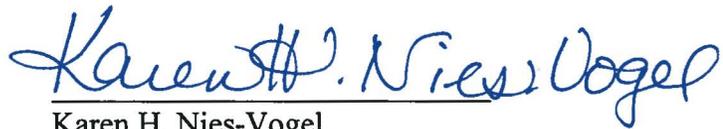
date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, in accordance with Part 756 and Section 766.23(c) of the Regulations, JEN Fibers and Performance Engineered may file an appeal of their naming as related persons in this Order with the Under Secretary of Commerce for Industry and Security. This 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.

Sixth, a copy of this Order shall be provided to Gromacki, JEN Fibers and Performance Engineered and shall be published in the *Federal Register*.

Seventh, this Order is effectively immediately and shall remain in effect until November 26, 2023.

Issued this 23 day of July, 2015.



Karen H. Nies-Vogel
Director
Office of Exporter Services