

Pursuant to Section 766.24 of the Export Administration Regulations, 15 C.F.R. Parts 730-774 (2014) (“EAR” or the “Regulations”),¹ I hereby grant the request of the Office of Export Enforcement (“OEE”) to renew the September 30, 2014 Order Temporarily Denying the Export Privileges of X-TREME Motors LLC, also known as XTREME Motors; XTREME Outdoor Store, also known as XTREME Outdoors; Tyson Preece; Corey Justin Preece, also known as Corey Preece or Justin Preece; and Toby Green. I find that renewal of the Temporary Denial Order (“TDO”) is necessary in the public interest to prevent an imminent violation of the EAR.

I. Procedural History and Background

On September 30, 2014, I signed a TDO denying for 180 days the export privileges of X-TREME Motors LLC and XTREME Outdoor Store (collectively, “X-TREME”). Tyson Preece, Corey Justin Preece, and Toby Green were added to the TDO as related persons in accordance with Section 766.23 of the Regulations. The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect upon issuance on September 30, 2014. Copies of the TDO were sent to each party named in the September 30, 2014 order in accordance with Sections 766.5 and 766.24(d) of the Regulations, and on October 7, 2014, the TDO was published in the *Federal Register*. 79 FR 60,445 (Oct. 7, 2014).

In support of the original TDO, OEE presented evidence that X-TREME repeatedly exported items controlled for Crime Control reasons without the required licenses to various

¹ The EAR are currently codified at 15 C.F.R. Parts 730-774 (2014). The EAR issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“EAA”). 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)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46959 (Aug. 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).

destinations, including Russia and China. In order to conceal the actual contents of the shipments the Respondents intentionally mislabeled the contents on U.S. Customs Declarations. Between September 1, 2014, and the issuance of the TDO on September 30, 2014, the United States Government detained approximately 20 shipments containing rifle scopes to destinations that required an export license.

The current TDO dated September 30, 2014, will expire on March 28, 2015, unless renewed on or before that date. On March 5, 2015, OEE submitted a written request for renewal of the TDO as to each named party. Notice of the renewal request was provided in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to any aspect of the requested renewal has been received.²

II. TDO Renewal

A. Legal Standard

Pursuant to Section 766.24(b) of the Regulations, BIS may issue or renew an order temporarily denying a Respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations. 15 C.F.R. § 766.24(b)(1). "A violation may be 'imminent' either in time or degree of likelihood." 15 C.F.R. § 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that "the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]" *Id.* A "lack

² Neither Tyson Preece, Corey Justin Preece, nor Toby Green has at any time challenged his respective inclusion as a related person to X-TREME.

of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.” Id.

B. Request for Renewal

OEE’s request for renewal is based upon the facts underlying the issuance of the TDO and the evidence developed over the course of this investigation, including the evidence summarized in Section I., *supra*. OEE’s on-going investigation of X-TREME, in conjunction with the United States Attorney’s Office for the District of Utah, included the execution of a search warrant at X-TREME’s place of business on September 29, 2014. Based on evidence obtained via the search warrant and since reviewed, OEE has determined that X-TREME’s unlawful export activities were more extensive than known at the time the TDO issued, including that X-TREME engaged in at least 44 unlicensed exports over a 30-day period prior to the issuance of the TDO. In addition to the unlicensed export of rifle scopes discussed above, OEE also identified unlicensed exports of stun guns and Oleoresin Capsicum spray, items also controlled for Crime Control reasons.

Moreover, despite the execution of the search warrant and the issuance of the TDO the following day, X-TREME continued to engage in unlawful export activities. On October 21, 2014 and October 28, 2014, respectively, X-TREME exported or attempted to export items subject to the Regulations to Canada. While the October 28, 2014 shipment was stopped by the United States Postal Service, X-TREME was successful in exporting the October 21, 2014 shipment. Both of these transactions plainly violated the TDO, which prohibits X-TREME from engaging in any export-related activities involving items subject to the EAR.

C. Findings

I find that the evidence presented by OEE demonstrates that renewal of the TDO is necessary to avoid an imminent violation of the Regulations based upon X-TREME's deliberate and covert violations both pre- and post-issuance of the TDO. Accordingly, renewal of the TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export and re-export transactions involving items subject to the EAR or other activities prohibited by the TDO. Doing so is consistent with the public interest to preclude future violations of the EAR.

IT IS THEREFORE ORDERED:

FIRST, that X-TREME MOTORS LLC, a/k/a XTREME MOTORS, 2496 South 1900 West, West Haven, Utah 84401; XTREME OUTDOOR STORE, a/k/a XTREME OUTDOORS, 2496 South 1900 West, West Haven, Utah 84401; TYSON PREECE, 3930 West Old Highway Road, Morgan, Utah 84050; COREY JUSTIN PREECE, a/k/a COREY PREECE, a/k/a JUSTIN PREECE, 1245 South Morgan Valley Drive, Morgan, Utah 84050; and TOBY GREEN, 480 West 175 North, Morgan, Utah 84050; and when acting for or on their behalf, any successors or assigns, agents, or employees (each a "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 Export Administration Regulations ("EAR"), or in any other activity subject to the EAR 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 EAR, or in any other activity subject to the EAR; 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 EAR, or in any other activity subject to the EAR.

SECOND, that 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 EAR;

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 EAR 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 EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR 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 EAR 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 EAR 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, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person 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.

In accordance with the provisions of Section 766.24(e) of the EAR, X-TREME Motors LLC and/or XTREME Outdoor Store may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Tyson Preece, Corey Justin Preece and/or Toby Green may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose such a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents and shall be published in the *Federal Register*.

This Order is effective immediately and shall remain in effect for 180 days.

A handwritten signature in black ink, appearing to read 'D. W. Mills', is written over a horizontal line.

DAVID W. MILLS
Assistant Secretary of Commerce
for Export Enforcement

Dated: March 27, 2015.