

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

In the Matter of:

Fahad Saleem Kharbey
Inmate Number: 66834-018
FMC Lexington
Federal Medical Center
P.O. Box 14500
Lexington, KY 40512

ORDER DENYING EXPORT PRIVILEGES

On May 31, 2019, in the U.S. District Court for the Middle District of Florida, Fahad Saleem Kharbey (“Kharbey”), was convicted of violating 18 U.S.C. § 554(a). Specifically, Kharbey was convicted of fraudulently and knowingly exporting firearms and magazines, designated as defense articles on the United States Munitions List, from the United States to Dubai, United Arab Emirates, without having first obtained a license or other approval from the United Department of State, in violation of 18 U.S.C. § 554. Kharbey was sentenced to 36 months in prison, supervised release for three years, a \$200 special assessment and restitution of \$755,281.13.

Pursuant to Section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. § 554(a), may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. § 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under

¹ ECRA was enacted as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. §§ 4801-4852. Kharbey’s conviction post-dates ECRA’s enactment on August 13, 2018.

ECRA, in which the person had an interest at the time of the conviction, may be revoked.

Id.

BIS received notice of Kharbey's conviction for violating 18 U.S.C. § 554(a), and has provided notice and opportunity for Kharbey to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"). 15 C.F.R. § 766.25.² BIS has not received a written submission from Kharbey.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Kharbey's export privileges under the Regulations for a period of seven years from the date of Kharbey's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Kharbey had an interest at the time of his conviction.³

Accordingly, it is hereby **ORDERED**:

² The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2020). 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 was extended by successive Presidential Notices, continued the Regulations in full force and effect under the International Emergency Economic Powers Act, 50 U.S.C. § 1701, et seq. (2012) ("IEEPA"). Section 1768 of ECRA, 50 U.S.C. § 4826, provides in pertinent part that all rules and 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. *See* note 1 above.

³ The Director, Office of Export Enforcement, is now the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 *Fed. Reg.* 73411, November 18, 2020).

First, from the date of this Order until May 31, 2026, Fahad Saleem Kharbey, with a last known address of Inmate Number: 66834-018, FMC Lexington, Federal Medical Center, P.O. Box 14500, Lexington, KY 40512, 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, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. § 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Kharbey 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, Kharbey 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 Kharbey and shall be published in the *Federal Register*.

Sixth, this Order is effective immediately and shall remain in effect until May 31, 2026.

John Sonderman
John Sonderman
Director
Office of Export Enforcement

Issued this ___ 19 ___ day of ___ February _____, 2021.