

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

In the Matter of:)
)
Claudia Guerra)
Inmate Number: 15751-479)
Federal Prison Camp Bryan)
P.O. Box 2149)
Bryan, Texas 77805)

ORDER DENYING EXPORT PRIVILEGES

On February 12, 2019 in the U.S. District Court for the Southern District of Texas, Claudia Guerra (“Guerra”) was convicted of violating Section 38 of the Arms Export Control Act, 22 U.S.C.A. § 2778 (“AECA”). Specifically, Guerra was convicted of knowingly and willfully attempting to export from the United States to Mexico, 18 boxes of 1,020 rounds of 7.62 x 39mm caliber ammunition which were designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Guerra was sentenced to 48 months in prison, three years of supervised release, and a \$100 assessment.

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, Section 38 of the AECA, 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

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. Guerra’s conviction post-dates ECRA’s enactment on August 13, 2018.

addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA in which the person had an interest at the time of the conviction may be revoked. *Id.*

BIS received notice of Guerra's conviction for violating Section 38 of the AECA and has provided notice and opportunity for Guerra 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 Guerra.

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 Guerra's export privileges under the Regulations for a period of 10 years from the date of Guerra's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Guerra had an interest at the time of her conviction³.

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 (2021). 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 February 12, 2029, Claudia Guerra, with a last known address of Inmate Number: 15751-479, Federal Prison Camp Bryan, P.O. Box 2149, Bryan, Texas 77805, and when acting for or on her behalf, her 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 Guerra 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, Guerra 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 Guerra and shall be published in the *Federal Register*.

Sixth, this Order is effective immediately and shall remain in effect until February 12, 2029.

John Sonderman
John Sonderman
Director
Office of Export Enforcement

Issued this 25 day of March, 2021.