

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Zhifu Lin, Inmate Number: 08295–087, CI Moshannon Valley, 555 Geo Drive, Philipsburg, PA 16866

On November 15, 2013, in the U.S. District Court for the Eastern District of New York, Zhifu Lin (“Lin”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)). Specifically, Lin knowingly and willfully exported from the United States to China firearms and firearms barrels, including a Beretta 9mm semi-automatic handgun, which were designated as defense articles on the United States Munitions List, without first obtaining the required license or written approval from the State Department. Lin was sentenced 108 months of imprisonment, three years of supervised release, and fined a \$200 assessment.

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 Export Administration Act (“EAA”), the EAR, or 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 CFR 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 10 years from the date of the conviction. 15 CFR 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 has received notice of Lin’s conviction for violating AECA, and in accordance with Section 766.25 of the Regulations, BIS has provided notice and an opportunity for Lin to make a written submission to BIS. BIS has not received a submission from Lin.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Lin’s export privileges under the Regulations for a period of 10 years from the date of Lin’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Lin had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until November 15, 2023, Zhifu Lin, with a last known address of Inmate Number: 08295–087, CI Moshannon Valley, 555 Geo Drive, Philipsburg, PA 16866, 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 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 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, 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 Lin 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, Lin 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 the Lin. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 15, 2023.

Issued this 22nd day of December 2014.

Karen H. Nies-Vogel,

Director, Office of Exporter Services .

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¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2014). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (“EAA”). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under IIEPA.