

Dated: October 17, 2017.

Joan M. Nagielski,

Human Resources Specialist, Office of Employment and Compensation, Department of Commerce Human Resources Operations Center, Office of Human Resources Management, Office of the Secretary, Department of Commerce.

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DEPARTMENT OF COMMERCE

Economic Development Administration

National Telecommunications and Information Administration

Bureau of Industry and Security

Membership of the Performance Review Board for EDA, NTIA and BIS

AGENCY: EDA, NTIA and BIS, Department of Commerce.

ACTION: Notice of Membership on the EDA, NTIA and BIS's Performance Review Board.

SUMMARY: The EDA, NTIA and BIS, Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of the Performance Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and ratings of Senior Executive Service (SES) members and Senior Level (SL) members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES and SL members. The appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

DATES: The period of appointment for those individuals selected for EDA, NTIA and BIS's Performance Review Board begins on October 20, 2017.

FOR FURTHER INFORMATION CONTACT: Joan Nagielski, U.S. Department of Commerce, Office of Human Resources Management, Department of Commerce Human Resources Operations Center, Office of Employment and Compensation, 14th and Constitution Avenue NW., Room 50013, Washington, DC 20230, at (202)482-6342.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the EDA, NTIA and BIS, Department of Commerce (DOC), announce the appointment of those individuals who have been selected to serve as members of EDA, NTIA and BIS's Performance

Review Board. The Performance Review Board is responsible for (1) reviewing performance appraisals and ratings of Senior Executive Service (SES) and Senior Level (SL) members and (2) making recommendations to the appointing authority on other Performance management issues, such as pay adjustments, bonuses and Presidential Rank Awards for SES and SL members. The Appointment of these members to the Performance Review Board will be for a period of twenty-four (24) months.

Dates: The name, position title, and type of appointment of each member of the Performance Review Board are set forth below:

1. *Department of Commerce, Bureau of Industry and Security (BIS)*, Carol Rose, Chief Financial Officer and Director of Administration, Career SES
2. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*, Paige Atkins, Associate Administrator for Spectrum Management, Career SES
3. *Department of Commerce, Economic Development Agency (EDA)*, Gregory Brown, Chief Financial Officer and Chief Administrative Officer, Career SES
4. *Department of Commerce, National Telecommunications and Information Administration (NTIA)*, Frank Freeman, Chief Administrative Officer, First Responder Network Authority, Career SES
5. *Department of Commerce, Minority Business Development Agency (MBDA)*, Christopher Garcia, Deputy Director, Noncareer SES

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Adrian Manuel Hernandez, 3037 S. 69th Drive, Phoenix, AZ 85043; Order Denying Export Privileges

On October 13, 2015, in the U.S. District Court for the District of Arizona, Adrian Manuel Hernandez

(“Hernandez”) was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”). Specifically, Hernandez was convicted of knowingly and willfully exporting, aiding and abetting the export of, and causing to be exported from the United States to Mexico one or more firearms designated as defense articles on the United States Munition List, without the required U.S. Department of State licenses. Hernandez was sentenced to five years of probation and a \$100 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 EAA [Export Administration Act], 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. 4610(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. 4610(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 pursuant to the Export Administration Act (“EAA” or “the Act”) or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Hernandez’s conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Hernandez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at <http://uscode.house.gov>)) (“EAA” or “the Act”). Since August 21, 2001, the Act 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 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

has not received a submission from Hernandez.

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 Hernandez's export privileges under the Regulations for a period of five years from the date of Hernandez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Hernandez had an interest at the time of his conviction.

Accordingly, *it is hereby ordered:*

First, from the date of this Order until October 13, 2020, Adrian Manuel Hernandez, with a last known address of 3037 S. 69th Drive, Phoenix, AZ 85043, 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, 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 Hernandez 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, Hernandez 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 Hernandez, and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 13, 2020.

Issued this 16th day of October 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Jimmy Rojas, a/k/a Jim Rojas, Currently Incarcerated at: Inmate Number: 49932-018, FCI Miami, P.O. Box 779800, Miami, FL 33177, and With a Prior Known Address at: 8002 Cornwall Lane, Tampa, FL 33615; Order Denying Export Privileges

On September 8, 2016, in the U.S. District Court, Middle District of Florida, Jimmy Rojas, a/k/a Jim Rojas ("Rojas") was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) ("AECA"). Specifically, Rojas was convicted of knowingly and willfully attempting to export from the United States to Jordan a 6015/PVS14 Series ITT Monocular Night Vision device and a Trijicon Advanced Combat Optical Gunsight (ACOG) Rifle Scope, both designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Rojas was sentenced to 30 months in prison, 36 months of supervised release, a \$100 assessment, and ordered to pay \$372,505.14 in restitution to the United States Postal Service.

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 [Export Administration Act], 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. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601-4623 (Supp. III 2015) (available at <http://uscode.house.gov>)) ("EAA" or "the Act"). Since August 21, 2001, the Act 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 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).