

the letter of assurance, both Chernyshenko and SFT (through Chernyshenko, its Director) concealed material facts directly or indirectly from a United States agency for the purpose of or in connection with effecting an export from the United States, and thereby violated Section 787.5(a) of the former Regulations.

Finally, the charging letters alleged that, in connection with the transaction and the activities described above, on or about July 20, 1993, both Chernyshenko and SFT caused, counseled or induced a third party to state on a Shipper's Export Declaration, an export control document as defined in Section 770.2 of the former Regulations, that the shipment of the HP-Workstation was authorized for export from the United States to Germany under General License GCT, when in fact the shipment required a validated license, as the HP-Workstation was ultimately destined for Russia. BXA alleged that, in so doing, both Chernyshenko and SFT caused, counseled, or induced the making of a false statement of material fact either directly or indirectly to a United States agency on an export control document, an act prohibited by Section 787.5(a) of the former Regulations, and thereby violated Section 787.2 of the former Regulations.

BXA presented evidence that the changing letters were served on Chernyshenko and SFT. Neither Chernyshenko nor SFT has answered the charging letters, as required by Section 766.7 of the Regulations, and each respondent is therefore in default. Thus, pursuant to Section 766.7 of the Regulations, BXA moved that the Administrative Law Judge (hereinafter the "ALJ") find the facts to be as alleged in the charging letters and render a Recommended Decision and Order.

Following BXA's motion, the ALJ issued a Recommended Decision and Order in which he found the facts to be as alleged in the charging letters, and concluded that those facts constitute three violations of the former Regulations by both Chernyshenko and SFT, as BXA alleged. The ALJ also agreed with BXA's recommendation that the appropriate penalty to be imposed for those violations is that Chernyshenko and SFT each be denied all U.S. export privileges for a period of 10 years. As provided by Section 766.22 of the Regulations, the Recommended Decision and Order has been referred to me for final action.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the Recommended Decision and Order of the ALJ.

Accordingly, it is therefore ordered,

First, that, for a period of 10 years from the date of this Order, Dmitry N. Chernyshenko, Director, SFT Advertising Agency, 35 Altufievskoe Avenue, Moscow, 127410 Russia, and SFT Advertising Agency, 35 Altufievskoe Avenue, Moscow, 127410 Russia, and all of SFT's successors, assigns, officers, representatives, agents and employees when acting for or on behalf of SFT, 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, or in any other activity 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. Benefiting 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, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of either denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by either 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 either 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 either denied person or any item subject to the Regulations that has been exported from the United States;

D. Obtain from either 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 that is owned, possessed or controlled by either denied person, or service any item, of whatever origin, that is owned, possessed or controlled by either 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, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to either 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.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on both Chernyshenko and SFT, as well as on BXA, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: July 21, 1999.

William A. Reinsch,

Under Secretary for Export Administration.

[FR Doc. 99-19248 Filed 7-27-99; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Order Denying Permission To Apply For or Use Export Licenses

Action Affecting Export Privileges; James Michael Clark, also known as Brother Michael, Jack, Christopher Michael Glanz, Edward, and The Professor.

In the Matter of: James Michael Clark, also known as Brother Michael, Jack, Christopher Michael Glanz, Edward, and The Professor; currently incarcerated at: Federal Correctional Institution, Register #422-87-083, River Road, P.O. Box 1000, Petersburg, Virginia 23804; and with an address at: 904 prospect Avenue, Takoma, Maryland 20912.

On December 4, 1998, James Michael Clark, also known as Brother Michael, Jack, Christopher Michael Glanz, Edward, and The Professor (Clark), was convicted in the United States District

Court for the Eastern District of Virginia of violating Sections 794 (a) and (c) of the Espionage Act (18 U.S.C.A. 792–799 (1976 & Supp. 1999)). Specifically, Clark was convicted of unlawfully and knowingly combining, conspiring, confederating and agreeing with other persons, both known and unknown, to knowingly and unlawfully communicate, deliver, and transmit writings and information relating to the national defense of the United States, with intent and reason to believe that the same would be used to the injury of the United States and to the advantage of the following governments: the German Democratic Republic, the Union of Soviet Socialist Republics, the Russian Federation and the Republic of South Africa.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991 & Supp. 1999)) (the Act),¹ provides that, at the discretion of the Secretary of Commerce,² no person convicted of violating Sections 793, 794, or 798 of the Espionage Act, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1999)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating Sections 793, 794, or 798 of the Espionage Act, the Director, Office of Exporter Services, in consultation with the Director, Office of export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and

the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Clark's conviction for violating Section 794 (a) and (c) of the Espionage Act, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Clark permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on December 4, 2008. I have also decided to revoke all licenses issued pursuant to the Act in which Clark had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

I. Until December 4, 2008, James Michael Clark, also known as Brother Michael, Jack, Christopher Michael Glanz, Edward, and The Professor, currently incarcerated at: Federal Correctional Institution, Register # 422–87–083, River Road, P.O. Box 1000, Petersburg, Virginia 23804, and with an address at: 904 Prospect Avenue, Takoma, Maryland 20912, 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, or in any other activity 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. Benefiting 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.

II. 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.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Clark by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 4, 2008.

VI. A copy of this Order shall be delivered to Clark. This Order shall be published in the **Federal Register**.

Dated: July 19, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–19214 Filed 7–27–99; 8:45 am]

BILLING CODE 3510-DT-M

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR, 1997 Comp. 306 (1998)), and August 13, 1998 (3 CFR, 1998 Comp. 294 (1999)), continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1999)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.