

“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. 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.

*Fourth*, that 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.

*Fifth*, 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 Cohen 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.

*Sixth*, 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.

*Seventh*, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202-4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18(b) of the Regulations.

*Eighth*, that, the charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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

Entered this 30th day of January, 2002.

**Michael J. Garcia,**

*Assistant Secretary for Export Enforcement.*

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

[Docket No. 99-BXA-06]

#### Action Affecting Export Privileges; Thane-Coat, Inc.

In the Matters of: Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson, Respondents.

#### Order Relating to Respondent, Thane-Coat, Inc.

The Bureau of Export Administration, United States Department of Commerce (“BXA”), having initiated an administrative proceeding against Thane-Coat, Inc. pursuant to section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. secs. 2401-2420 (1991 & Supp. V 1999)) (the “Act”),<sup>1</sup> and the Export Administration

Regulations (currently codified at 15 CFR Parts 730-774 (2001)) the (“Regulations”),<sup>2</sup> based on allegations that Thane-Coat, Inc. committed 112 violations of the former Regulations—one violation of section 787.3(b), 32 violations of section 787.4, five violations of section 787A.4, 32 violations of section 787.5(a), five violations of section 787A.5(a), 32 violations of section 787.6, and five violations of section 787A.6 of the former Regulations. Specifically the charges are:

1. *One Violation of 15 CFR 787.3(b): Conspiracy:* Beginning in June 1994 and continuing through July 1996, Thane-Coat, Inc. conspired with Jerry Vernon Ford, Preston John Engebretson, TIC, Ltd. and Export Materials, Inc., to violate the former Regulations by devising and employing a scheme to export and by exporting polyurethane (isocyanate/polyol) and polyether polyurethane (collectively referred to as “pipe coating materials”), items subject to the former Regulations, from the United States through the United Kingdom to Libya, a country subject to comprehensive economic sanctions, without applying for and obtaining the required export authorizations from the U.S. Government.

2. *37 Violations of 15 CFR 787.6 and 787A.6: Exports Without the Required Licenses:* Between on or about February 12, 1995 and on or about April 25, 1996, on 37 separate occasions, Thane-Coat, Inc. exported or caused to be exported pipe coatings materials from the United States to Libya without obtaining validated export licenses from the Department of Commerce as required by sections 772.1(b), 772A1(b), 785.7, and 785A.7 of the former Regulations.

3. *37 Violations of 15 CFR 787.4 and 787A.4: Acting with Knowledge of a Violation:* In connection with each of

November 13, 2000, the Act was reauthorized by Public Law No. 106-508 and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (66 FR 44025 (August 22, 2001)), has continued the Regulations in effect under IEEPA.

<sup>2</sup> The violations at issue occurred from 1994 through 1996. The Regulations governing the violations at issue are found in the 1994 through 1996 versions of the Code of Federal Regulations (15 CFR parts 768-799 (1994-1995), and 15 CFR parts 768-799 (1996), as amended (61 FR 12714, March 25, 1996)) (the “former Regulations”). The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the then-existing Regulations as 15 CFR parts 768A-799A. In addition, the March 25, 1996 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 CFR parts 730-774, effective April 24, 1996. The former Regulations define the various violations that BXA alleges occurred and the Regulations establish the procedures that apply to this matter.

<sup>1</sup> Form August 21, 1994, through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (1994 & Supp. V 1999)) (“IEEPA”). On

the exports described in paragraph 2 above, on 37 separate occasions, Thane-Coat, Inc. acted with knowledge or had reason to know that validated licenses were required from the Department of Commerce before the pipe coating materials could be sold to Libya.

4. *37 Violations of 15 CFR 787.5(a) and 787A.5(a): Misrepresentation and Concealment:* In connection with each of the exports described in paragraph 2 above, Thane-Coat, Inc., on 37 separate occasions, filed or caused to be filed Shipper's Export Declarations or bills of lading, export control documents as defined in sections 770.2 and 770A.2 of the former Regulations, on which it represented that the ultimate end-use of the pipe coating materials was in the United Kingdom. These statements of material fact were false as the ultimate end-use of the pipe coating materials was in Libya, and were made, directly or indirectly, to an official of the U.S. Government.

BXA and Thane-Coat, Inc. having entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

*It is therefore ordered:*

*First*, a civil penalty of \$1,120,000 is assessed against Thane-Coat, Inc. Thane-Coat, Inc. shall pay \$200,000 to the U.S. Department of Commerce within 30 days from the date of entry of this Order, it shall make a second payment of \$200,000 to the U.S. Department of Commerce within 60 days from the date of entry of this Order, and it shall make a third payment of \$200,000 to the U.S. Department of Commerce within 90 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions. Payment of the remaining \$520,000 shall be suspended for a period of two years from the date of entry of this Order and thereafter shall be waived, provided that during the period of suspension, Thane-Coat, Inc. has committed no violation of the Act, or any regulation, order or license issued by BXA; and has made the three payments described above in a timely manner.

*Second*, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (1983 & Supp. V 1999)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Thane-Coat, Inc. will

be assessed, in addition to interest, the amount suspended, and a penalty charge and an administrative charge, as more fully described in the attached Notice.

*Third*, that, for a period of 25 years from the date of this Order, Thane-Coat, Inc., its successors or assigns, and when acting for or on behalf of Thane-Coat, Inc., its officers, representatives, agents or employees ("denied persons") 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. 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.

*Fourth*, that no person may, directly or indirectly, do any of the following:

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

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

D. Obtain from the denied persons 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 persons, or service any item, of whatever origin, that is owned, possessed or controlled by the denied persons 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.

*Fifth*, 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 Thane-Coat, Inc. 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.

*Sixth*, that this Order does not prohibit any export, reexport, or other transactions 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.

*Seventh*, that a copy of this Order shall be delivered to the United States Coast Guard ALJ Docketing Center, 40 Gay Street, Baltimore, Maryland 21202–4022, notifying that office that this case is withdrawn from adjudication, as provided by Section 766.18 of the Regulations.

*Eighth*, that the charging letter, the Settlement Agreement, and this Order shall be made available to the public.

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

Entered this 24th day of January, 2002.

**Michael J. Garcia,**

*Assistant Secretary of Commerce for Export Enforcement.*

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## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

[Docket No.: 99–BXA–06]

#### Action Affecting Export Privileges: Jerry Vernon Ford

In the matters of: Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson, Respondents.

#### Order Relating to Respondent, Jerry Vernon Ford

The Bureau of Export Administration, United States Department of Commerce