

DEPARTMENT OF COMMERCE

Bureau of Export Administration

**Action Affecting Export Privileges;
Kenneth Broder; Order Denying
Permission To Apply for or Use Export
Licenses**

In the Matter of: Kenneth Broder, Calle Rafael Agosto Sanchez No. 22 Torre, Don Roberto Ens, Piantini, Aparto (Post Office Box) 30298, Santo Domingo, Dominican Republic.

On February 2, 1998, Kenneth Broder (Broder) was convicted in the United States District Court for the Southern District of Florida on, *inter alia*, one count of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1998)) (IEEPA). Broder was convicted of knowingly, willfully, and unlawfully exporting and causing to be exported 18 containers of goods to Ría Haina, Dominican Republic, which were then transshipped to Havana, Cuba, without the required export licenses.

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. 1998)) (the Act,¹ provides that, at the discretion of the Secretary of Commerce,² no person convicted of violating the IEEPA, 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 Administrations Regulations (currently codified at 15 CFR Parts 730–774 (1998)) (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 the IEEPA, 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 Broder's conviction for violating the IEEPA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Broder 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 nine years from the date of his conviction. The nine-year period ends on February 2, 2007. I have also decided to revoke all licenses issued pursuant to the Act in which Broder had an interest at the time of his conviction.

Accordingly, it is hereby ordered:

I. Until February 2, 2007, Kenneth Broder, Calle Rafael Agosto Sanchez No. 22 Torre, Don Roberto Ens, Piantini, Apartado (Post Office Box) 30298, Santo Domingo, Dominican Republic, 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 Broder 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 February 2, 2007.

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

Dated: February 2, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

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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 (63 Fed. Reg. 44121, August 17, 1998), continued the Export Administration Regulations in effect under the IEEPA.

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.