A Profitable Trade: Illicitly Shipping BMWs to China

Lucrative Re-Sales of Luxury Cars Targeted by Federal U.S. Investigators

By Andrew Grossman

 [@A\_Grossman](http://www.twitter.com/@A_Grossman)

 [Andrew.Grossman@wsj.com](mailto:Andrew.Grossman@wsj.com)

 [Biography](http://topics.wsj.com/person/A/biography/6188)

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In the U.S., the sticker price for a [BMW](http://quotes.wsj.com/XE/BMW) [**BMW.XE**](http://quotes.wsj.com/XE/BMW) **in** Your Value Your Change Short position X5 sport-utility vehicle is just over $56,000. In China, BMW advertises the same car for nearly three times that, creating an opening for arbitragers to buy the vehicles in the U.S. and ship them to China for a quick profit.

In recent months federal prosecutors have targeted the shipments, seizing dozens of high-end cars at ports around the U.S. and bank accounts holding millions of dollars. U.S. filings in New York, New Jersey, South Carolina and elsewhere argue the sales circumvent export restrictions imposed by auto makers and defraud American dealers.

At least 35,000 luxury vehicles are purchased at dealers and sent out of the country this way each year, according to Ely Goldin, an attorney who represents a couple who has had their cars and assets seized. He says his clients' business is legal and contends the government shouldn't be making a criminal case out of what they view as a civil dispute between their clients and car companies.

"The government's essentially trying to stop or force people who own property from doing what they want with their property," said Joshua Widlansky, a lawyer in Boca Raton, Fla., who represents a firm that purchases luxury vehicles for export. His client hasn't been charged but its bank accounts have been seized.

Prosecutors say the transactions become fraudulent if straw buyers misrepresent their intentions to dealers and auto-insurance companies. Many dealers require car purchasers to sign an agreement promising not to export the car for a certain period. Prosecutors allege buyers signed those papers even though they knew the cars were to be immediately exported.

"Any time you use lies and a scheme to induce someone to do something that they would not otherwise do, that's a fraud," said Evan Weitz, an assistant U.S. attorney in Newark, N.J., who is working on a wire fraud case that involves the seizure of 19 BMW SUVs and one Porsche Cayenne.

Neither argument has been fully tested in court, but that could happen soon as exporters prepare to contest the seizure of their property. Two men pleaded guilty this spring to fraud charges involving luxury-car exports and were sentenced to three-years of probation.

China also has recently lashed out at companies that charge more for cars and other goods in China than elsewhere.

Auto makers say their no-export provisions are needed to ensure that cars are sold with the proper equipment and warranties for the country where they'll be driven. And they say they are entitled to set prices differently in different markets.

"Vehicles exported to other countries undermine our pricing and volume positioning in the United States and other world-wide markets," said a spokeswoman for Mercedes-Benz USA, a subsidiary of [Daimler](http://quotes.wsj.com/XE/DAI) AG [DAI.XE +0.13%](http://quotes.wsj.com/XE/DAI) [**DAI.XE**](http://quotes.wsj.com/XE/DAI) **in** Your Value Your Change Short position . BMW said it is been "working closely" with federal agents to stop what it calls illegal exports of its vehicles.

"It's a sophisticated and brazen business with brokers training groups of individuals on how to buy for illegal export," a BMW spokesman said.

To fight unwanted exports, auto makers keep lists of suspected export traders to whom dealers aren't allowed to sell. Dealers who knowingly sell cars for export face fines and the withholding of vehicles by manufacturers.

Auto exporters recruit straw buyers on websites like Craigslist with the promise of a few hundred dollars for a few hours' work, according to court documents. Exporters generally give the buyers a cashier's check and instructions to purchase a certain vehicle, according to filings in several cases. They typically pay the full sticker price for a car and put their name on the title before driving to a nearby parking lot where the car is loaded onto a truck and taken to a port.

In some cases, according to prosecutors, the exporters use false companies or names to avoid paying sales tax or to secure discounts.

In Manhattan last month, prosecutors moved to seize four bank accounts and 47 vehicles belonging to companies controlled by a couple with offices in Memphis, Tenn.

The U.S. alleges that Erxin Zhou and Yifan Kong used money from a tire business to fund the purchase and export of 2,000 luxury cars—worth more than $80 million in the U.S.—to China last year. Their goal for this year was 3,000, according to the government's complaint. The couple hasn't been charged with a crime, but some of their company's assets were seized in October by the U.S.

The government alleges the couple's export company, Efans Trading Corp., employed buyers who promised not to export the cars they were buying and didn't include vehicle serial numbers on certain customs forms, which might have tipped off manufacturers that the cars were being shipped overseas. The assets were seized because of what the U.S. claims was their role in a "fraudulent scheme."

Mr. Goldin, who represents the couple, said it was the responsibility of a company hired to move the cars through customs to fill out the forms and added that the serial numbers were in plain view on the vehicles.

While dealers might have cause to sue for breach of contract, the government has no business getting involved, he said. "Why should a buyer of a car be prohibited from exporting a car after he paid top dollar for it?" Mr. Goldin said. "If there is an arbitrage opportunity, someone will always try to make a buck and there is nothing wrong with that. It's called capitalism."

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