

A F F I D A V I T

I, Willie Lo, being duly sworn, hereby depose and state the following:

1. I am a Special Agent ("SA") with the Department of Commerce ("DOC"), Bureau of Industry and Security ("BIS"), Office of Export Enforcement ("OEE"), and have been so employed since January 2006. I am responsible for investigating, among other activities, crimes involving the illegal exportation of goods, technology and software, which are regulated under applicable federal statutes based on the nature of their intended use, the identity of their end user, and their destination. Prior to being a SA with the OEE, I was employed as a SA with the Social Security Administration, Office of the Inspector General, Office of Investigations, where I investigated numerous violations of federal criminal law relative to the programs and operations of the Social Security Administration, including investigations concerning theft of government funds by Social Security beneficiaries, false identification, and investigations of Social Security employees involved in conspiracies to defraud the government and/or private entities.

2. I have personally participated in this investigation and have witnessed many of the facts and circumstances described

herein. In addition, I have received information from other federal and state law enforcement officials. I have also reviewed documents and correspondence obtained during the course of the investigations.

3. The statements contained in this affidavit are based on my own observations and review of documents, or reliable information provided to me by other law enforcement personnel or persons otherwise knowledgeable in the circumstances described herein. Because this affidavit is being submitted for the limited purpose of obtaining a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only those facts and circumstances that I believe are necessary to establish probable cause for a criminal complaint.

4. This affidavit is made in support of a criminal complaint against WILLIAM CHI-WAI TSU ("TSU") charging him with knowingly exporting or attempting to export restricted integrated circuits to the People's Republic of China without a license, in violation of the International Emergency Economic Powers Act (50 U.S.C. §§ 1701-1706) and the Export Administration Regulations (15 C.F.R §§ 730-774).

I.

Summary of the Relevant Export Laws and Regulations

5. The Export Administration Act ("EAA") governs the export of various commodities, technology and software (collectively referred to as "items") to foreign countries. The EAA and regulations promulgated thereunder, including the Export Administration Regulations ("EAR") (codified at 15 C.F.R. Parts 730-799), place limitations on the export of those items that (1) could make a significant contribution to the military potential of other countries; (2) that could prove detrimental to the national security of the United States; or (3) that are contrary to United States foreign policy. The Secretary of Commerce implements the authority provided by the EAA through the EAR and maintains the EAR at the direction of the President, who identifies items over which the Department of Commerce exercises regulatory jurisdiction. The Department of Commerce, Bureau of Industry and Security, imposes a license or other export authorization requirement before an item subject to the EAR may be lawfully exported from the United States.

6. Although the EAA expired on August 20, 2001, Presidential Executive Order 13222 of August 17, 2001 [3 C.F.R., 2001 Comp. 783 (2002)], as extended by successive Presidential notices, the latest being that of July 23, 2008 (73 Fed. Reg.

43606), has continued the EAA and the EAR in effect under the International Emergency Economic Powers Act ("IEEPA"). IEEPA authorizes investigations into violations of regulations issued to implement the authority of the relevant statute. See 50 U.S.C. § 2411(a)(1)(2000) and 50 U.S.C. § 1702(a)(1) and (2). Knowing and intentional violations of the EAR are criminal (see 15 C.F.R. § 764.3(b)(2)). Because the EAA has lapsed, and the EAR is held in effect by IEEPA, pursuant to executive order, the criminal provisions for a violation of the EAR are found under IEEPA at 50 U.S.C. § 1705(b).

7. IEEPA states, "A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) of this section shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both." 50 U.S.C. § 1705(c) (as amended October 16, 2007). Subsection (a) prohibits persons from violating, attempting to violate, conspiring to violate, or causing a violation of any license, order, regulation or prohibition issued under chapter 35 of IEEPA.

8. The EAR states, "No person may engage in any conduct prohibited by or contrary to, or refrain from engaging in any

conduct required by the EAA, the EAR or any order, license or authorization issued thereunder." 15 C.F.R. § 764.2(a).

9. The EAR further states, "No person may cause or aid, abet, counsel, command, induce, procure or permit the doing of any act prohibited, or the omission of any act required, by the EAA, the EAR, or any order, license or authorization issued thereunder." 15 C.F.R. § 764.2(b).

10. Part 774 of the EAR (codified at 15 C.F.R. Part 774, "Commerce Control List") contains descriptions of items controlled by the Secretary of Commerce for, among others, national security and foreign policy reasons. Individual items on the Commerce Control List (CCL) are identified by an Export Control Classification Number (ECCN). ECCN 3A001 identifies certain electronic components whose export from the United States and re-export from abroad is controlled for national security reasons.

11. Section 742.4(b)(7) of the EAR (15 C.F.R. Part 742.4(b)(7) "Licensing Policy") states, "For the People's Republic of China, the general licensing policy is to approve applications, except that those items that would make a direct and significant contribution to electronic and anti-submarine

warfare, intelligence gathering, power projection and air superiority receive extended review or denial.”

12. Accordingly, before a person or entity may export an item that is classified as ECCN 3A001 to the People’s Republic of China (“PRC”), he/it must apply for and obtain a valid export license.

IV.

Factual Basis for Probable Cause

A. RFMW’s Dealings with CHEERWAY Corporation

13. On or about January 8, 2008, OEE SA Michael Zaborowski informed me of the following facts that he learned on December 19, 2008, during a meeting with representatives of RFMW, an electronic components distributor located in San Jose, California:

a. SA Michael Zaborowski met with employees of RFMW Incorporated. RFMW distributes components manufactured by Triquint Semiconductor, Incorporated, M/A-Com, Incorporated, and other manufacturers. Many of the components sold by RFMW are restricted under the EAR and other laws, and thereby require approval in the form of a validated export license from the United States government prior to their export to certain international destinations. Because many of its products are

export-restricted, RFMW has an internal program to ensure compliance with export regulations. That program involves the routine collection of end-user and end-use information for the components that they sell.

b. RFMW had become suspicious of one of its customers, CHEERWAY Corporation, and believed that CHEERWAY might be exporting items to the PRC in violation of United States export laws. RFMW employees stated that CHEERWAY had been purchasing export-controlled items manufactured by Triquint since approximately March 2008. CHEERWAY had routinely advised RFMW that its products were being used in the United States. Specifically, CHEERWAY Vice President William TSU had advised RFMW that CHEERWAY did not export its products. Information provided by CHEERWAY to RFMW regarding the usage of the products it was purchasing from RFMW indicated that CHEERWAY was associated with an unnamed facility in New Hampshire that was building products for Cisco Systems, Inc., a United States manufacturer of telecommunications and networking systems.

c. On or about October 15, 2008, TSU on behalf of CHEERWAY submitted a request for a quote on commodities manufactured by Triquint whose export is restricted under United States export laws. RFMW replied to the email request, advising,

"This part is under the jurisdiction of the U.S. Dept. of State and requires prior authorization from the U.S. Dept. of State to export. M/A-Com advises that any export of this device, or any product containing this device, must be approved by the U.S. Dept. of State prior to the transaction taking place...." After being advised of the export restrictions on the requested commodities, CHEERWAY provided an end user statement indicating that the parts were not being exported and that Cisco Systems was the end user of those commodities.

d. In October 2008, CHEERWAY returned purchased products to RFMW citing quality control issues. RFMW became concerned that the returned products, integrated circuits (also referred to as "chips"), were not being handled appropriately. (The integrated circuits at issue were susceptible to many different environmental factors that could affect their performance. Consequently, they are usually handled only in designated "clean rooms" and by skilled personnel to avoid those issues). Specifically, RFMW employees informed SA Zaborowski that the integrated circuits had been handled "primitively," and that a "good assembly house in the U.S. wouldn't handle them like that." Further, the lapse of approximately thirty days between the request to return the items and the receipt of those returned

items made RFMW suspicious that they had been sent outside of the United States prior to being returned to RFMW.

e. Because of these suspicions, RFMW and Triquint asked to inspect the New Hampshire facility where CHEERWAY was purportedly using for fabrication of its products. TSU denied their request to visit either the facility or his office in Hacienda Heights, California. He further refused to identify the name or specific location of the facility, citing, but never producing, a "non-disclosure agreement" signed between his company and Cisco Systems. TSU also indicated in an email to RFMW that the facility was "being remodeled" and was not accepting visitors.

f. In October 2008, RFMW expressed its concerns to TSU after CHEERWAY began to order increasingly sophisticated export-restricted components that have radar and other military applications. In an email dated October 24, 2008, a RFMW employee advised CHEERWAY,

I have to present information to Triquint next week about all the new activity. Presently they have Cheerway classified as an exporter since we have no documentation to the contrary. I understand your NDA issues, but Triquint will ask me for an update next Wednesday. If I do not provide any details, such as the names of the contract manufacturers, they may decide to suspend sales to Cheerway.

g. As a precautionary measure, RFMW requested that CHEERWAY sign and return a "Letter of Assurance Regarding United States Export Regulations."

h. On or about December 12, 2008, TSU forwarded, via email, a signed copy of the assurance letter to RFMW. That letter acknowledged that CHEERWAY was/is aware of the various export control regimes and laws/regulations present in the United States including the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State, the Export Administration Regulations ("EAR") maintained by the Department of Commerce, and the Office of Foreign Assets Control regulations maintained by the Department of Treasury.

i. In the email message containing the attachment, Tsu stated, in part,

Please make sure to have the stock ship out today. One [sic] you ship out please forward me the tracking No. If you have any question please contact me by email, I am in New Hampshire now.

j. CHEERWAY primarily communicated with RFMW through the use of email and, on all occasions, email from CHEERWAY was sent by William TSU at the email address "williamtsu47@yahoo.com." Further, on occasions when TSU provided end-user statements, purchase orders and other

documents, those documents were attached electronically to the email messages.

k. The purchases made by CHEERWAY from RFMW were sent to CHEERWAY's business address, 1432 Forest Glen Drive, Unit 65, Hacienda Heights, CA.

14. SA Zaborowski informed me that after his meeting with RFMW representatives he searched Department of Homeland Security (DHS) travel records pertaining to TSU which revealed that he was outside of the United States on December 12, 2008, the date TSU emailed RFMW and claimed to be in New Hampshire. DHS records show that TSU departed the United States on November 26, 2008 for Shanghai, PRC, and had not re-entered the country.

B. Information on CHEERWAY Corporation

15. On or about January 8, 2009, SA Zaborowski informed me that he conducted a public records search on CHEERWAY Corporation. That search revealed that CHEERWAY Corporation was registered with the California Secretary of State on December 1, 2008. William TSU is listed as CHEERWAY's "Agent for Service of Process." Searches of other publicly available databases, including the United States government procurement and contractor databases, as well as general Internet searches, yielded no other information about CHEERWAY. 18. I have reviewed email

correspondence between TSU and other individuals (described further below in paragraphs 28-29). In this correspondence, TSU described CHEERWAY as a "minority owned small business" specializing in "Microwave circuit and system design for the Space, Military and Wireless Industries."

16. In purchase orders and other documents I have reviewed, CHEERWAY listed its corporate address as 1432 Forest Glen Drive, Suite 65, Hacienda Heights, California.

17. On January 7, 2009, SA Zaborowski informed me that a Los Angeles County record search he conducted revealed that the CHEERWAY's business address was an apartment or condominium owned or occupied by Betty BAI.

18. Further, on or about January 7, 2009, SA Zaborowski informed me that he conducted a search of Department of Commerce databases and found no record of any export license application filed by or on behalf of CHEERWAY. Further, other law enforcement database searches revealed no export-related filings by or on behalf of CHEERWAY.

19. SA Zaborowski also told me that a search of a DHS database for TSU revealed that TSU had taken multiple trips to the PRC during the last six months. In that time frame, TSU had almost equally divided his time between the United States and

abroad. And all reported entries and exits to or from the United States in the past six months had been from or to mainland China.

20. Following up on the information provided by TSU to RFMW concerning CHEERWAY's alleged work for Cisco Systems, SA Zaborowski informed me that no relationship existed between CHEERWAY and Cisco Systems. Specifically, on December 19, 2008, SA Zaborowski contacted representatives from the Procurement Division of Cisco Systems, who queried an internal database of all Non-Disclosure Agreements that Cisco Systems has prepared or to which Cisco Systems is a party. After searching its database by company name, address, telephone and representative, no agreements involving CHEERWAY could be found. Cisco Systems representatives also stated that, according to its Manufacturing Group, CHEERWAY was not named on any Approved Manufacturers Lists in Cisco's Global Supply Management database. Cisco representatives were doubtful that any such procurement agreements existed with CHEERWAY and further advised that it was unlikely that any of the components CHEERWAY was requesting from RFMW would be used in Cisco systems.

C. Export-Restricted Triquint Items Illegally Sold in the PRC

21. As part of the investigation, SA Zaborowski informed me that he spoke with representatives of Triquint on December 19,

2008. Triquint representatives advised him of the following facts:

a. Triquint was conducting an internal investigation into the activities of CHEERWAY as they relate to the export of Triquint's commodities. In early November, 2008, Triquint's authorized distributor in the PRC advised that certain export-restricted Triquint components were being sold in the PRC and they believed that those parts were coming from United States traders illegally.

b. Triquint's PRC distributor provided a list of Triquint part numbers as well as pictures depicting gel packs for Triquint components. These Gel packs are packaging materials used to seal integrated circuits to ensure that they are free from any environmental contamination. The gel packs also contain labels that identify the purchaser of the components. The distributor advised, and the photographs, which SA Zaborowski viewed, revealed, that the portions of the labels where the identity of the purchaser should be listed were scratched out or otherwise obliterated, preventing identification of that purchaser. This tactic is commonly used in the illicit trading of electronic components, presumably to conceal the trade routes and the identity of intermediaries.

c. Certain features and markings on the gel pack led Triquint to confirm that those commodities were distributed through RFMW.

d. Triquint then requested information from RFMW, its United States distributor, concerning any recent sales of those commodities. RFMW revealed that most of the parts identified by Triquint, if not all of them, were recently sold to CHEERWAY, in quantities that were identical or significantly similar to the numbers and types of components believed to have been smuggled into the PRC.

e. Triquint stated that many of the electronic components in question have been classified by the company as under the jurisdiction of the Export Administration Regulations. Specifically, Triquint advised that the following part numbers are in the ECCN category 3A001, restricted for export to the PRC for national security reasons:

| Part Number | Dates Sold to CHEERWAY by RFMW (All in 2008) |
|--------------------|---|
| TGA2514-EPU | November 18 and November 24 |
| TGA4036 | May 2 |
| TGA4516 | September 26, October 9, and November 24 |
| TGA4517 | July 10, September 26, and October 9 |
| TGA9092-SCC | November 18 |

g. Manufacturer specifications for all of the above components indicate that their primary uses are for "Point to Point Communications" systems and satellite communications systems. Manufacturers specifications sheets for Triquint part numbers TGA4516 and TGA4517 indicate an additional primary application of "Military RADAR Systems." Triquint and RFMW have confirmed recent sales of these parts to CHEERWAY.

22. On January 7, 2009, SA Zaborowski informed me that, on December 30, 2008, he spoke with Department of Commerce Licensing Officer Brian Baker regarding the classification of the above listed parts. Baker confirmed that the above-listed table items were restricted under ECCN 3A001 for National Security reasons to the PRC and that the export of such items to the PRC would indeed require prior approval from the Department of Commerce in the form of a Validated Export License.

23. On January 8, 2009, I searched Department of Commerce databases and found no instance in which an export license was granted to CHEERWAY for export of the above-listed part numbers to the PRC.

D. Requests for Export-Restricted Products from CHEERWAY to Aeroflex Corporation

24. SA Zaborowski informed me that on or about December 22, 2008, he conducted a search of Department of Commerce records, which led to the discovery of a suspicious inquiry report filed by Aeroflex Corporation, a California-based manufacturer of electronic components. On December 24, 2008, SA Zaborowski contacted Aeroflex and learned the following information about CHEERWAY:

a. On or about July 22, 2008, an Aeroflex export compliance representative sent an email to the Commerce Department Office of Export Enforcement regarding CHEERWAY. Aeroflex reported having received a suspicious request for a quote from CHEERWAY, and added that it had recently received several similar requests from trading companies in or associated with the PRC. The requested commodities were under the jurisdiction of the International Traffic in Arms Regulations (ITAR), and Aeroflex indicated that it believed CHEERWAY could be attempting to purchase those items on behalf of unknown parties in the PRC. Aeroflex more recently reported that they declined to do business with CHEERWAY, based, in part, upon its conclusion that there was an unacceptable risk of compliance violations with

regard to United States export regulations.

b. Aeroflex provided SA Zaborowski copies of email correspondence regarding the requested sale of commodities to CHEERWAY. All correspondence with CHEERWAY was with TSU through the email address "williamtsu47@yahoo.com." In addition, purchase orders and other documents submitted as part of the request for quote were electronically attached to those email messages. TSU provided end-user information as requested by Aeroflex, and indicated that some of the components requested would be used at their "facility in California" and that none would be exported.

E. Search of TSU's email account "williamtsu47@yahoo.com"

25. On January 2, 2009, SA Zaborowski obtained and served a search warrant in the Northern District of California for the contents of the email account, williamtsu47@yahoo.com, used by TSU in procuring commodities from U.S. manufacturers and distributors of electronic components.

26. I have reviewed email communications sent to and received by the williamtsu47@yahoo.com account obtained through the execution of that search warrant and learned the following:

i. TSU's business activities in the PRC

a. In an email dated March 24, 2008, from TSU to an unknown person, TSU stated, in part:

I am of Chinese origin, I was born in Shanghai and I left Shanghai 1960 to Hong Kong. Then I left Hong Kong 1970 for USA to further my education and since became an [sic] USA citizen. I come back to Beijing to help training Chinese scholar to design the Satellite for the China Aerospace Science & Technology Corporation in 2004. I like China, so I plan to stay in China at least for a while....

b. Other email communications between TSU and other individuals mention "704" and "704 Institute." Based on my training and experience, I believe this refers to the 704th Research Institute in the PRC, a subordinate entity to the China Aerospace Science & Technology Corporation.

c. In an email dated October 15, 2008, TSU wrote:

We have received distributorship from Triquit [sic] for California in USA. And we have already sold and shipped RMB2M parts to our customer in China. We can also supply you the chips.

d. In another email dated September 14, 2008, TSU wrote to an unknown person, in part,

Hi, Please to Air China in FanZhaung to change my return flight from 9/17 to 9/25.... I will bring L7815,

F1350-SCC, A4516 & partial A4517.¹

ii. Business Relationship of TSU and Betty Bai

a. In an email dated March 26, 2008, from TSU to Betty BAI, the person listed as the occupant or owner of CHEERWAY's business address, the subject line was captioned, "Re: be my partner" and stated:

Hi Betty, 704 just notify me that this year they will need to import from USA over US\$300,000.00 if you are interest in partner with me we will each receive US\$30,000.00 for service just for this year alone. If you are interest in this, please give me a call.

b. In an email dated May 18, 2008, from TSU to BAI, TSU stated, in part:

Please also notice you will receive a package on Monday with 3 pcs. in it. Once you received please send them to me right away. This urgent for 704.

c. An emailed dated December 10, 2008, from TSU to BAI, TSU stated,

Hi Betty, Please send the last package to me when you have time. They need it urgent. Please mark the package as 'Switch, samples.'

¹ I believe the email correspondence of September 14, 2008, is referencing model numbers for commodities purchased by CHEERWAY from United States manufacturers. In fact, I have reviewed correspondence from U.S. manufacturers which show that they shipped products with the aforementioned commodity numbers to CHEERWAY at the SUBJECT PREMISES days before TSU's scheduled return flight to China.

d. In reviewing other email communications between TSU and BAI in the williamtsu47@yahoo.com account, I have also seen correspondence in which TSU notified BAI of incoming wire transfers to her from the PRC.

iii. TSU's correspondence with U.S. electronics manufacturers

a. In an email to TSU dated August 7, 2008, a U.S. manufacturer wrote:

Your company's compliance with U.S. export controls and regulations is important to U.S. Homeland security, and protects U.S. interests at home and abroad. All American companies must ensure that their exports are conducted legally. It is your company's responsibility to provide the necessary documentation to avoid huge costs of non-compliance with U.S. Export Control Regulations - such as bad publicity, severe monetary fines, denial of export privileges and even prison sentences.

b. In an email from RFMW to TSU dated February 21, 2008, RFMW stated, in part:

P/N: TGA4036 that you requested on a quote via the website has an ECCN of 3A001.B.2.D which means this product is controlled for export outside of the United States by the US Department of Commerce and may require an Export License....

F. CHEERWAY Order for RFMW Part TGA4517

27. On or about May 29, 2008, TSU sent via email a request for a quote to RFMW for 50 pieces of Triquint TGA4517, an export-restricted item.

28. On or about May 29, 2008, RFMW provided TSU a quote of \$315.00 per unit for 50 pieces of TGA4517.

29. In or about July, August and September 2008, TSU provided several purchase orders to RFMW for approximately 200 pieces of Triquint TGA4517's. Several shipments had been made to CHEERWAY prior to December 2008, but there was a balance due of 70 pieces by January 2009.

30. On or about January 8, 2009, a representative of RFMW emailed TSU at williamtsu47@yahoo.com, demanding that TSU complete a Letter of Assurance Regarding United States Export Regulations ("Letter of Assurance") and End Use/End-User Statement for the balance of the products he was awaiting shipment on.

31. On or about January 8, 2009, RFMW packaged a genuine Triquint TGA4517 in a gel pack wrapping, but labeled the packaging as if there were a quantity of seventy (70) in the package. The packing paperwork warned that the TGA4517 (ECCN 3A001.B.2.D) is restricted for export by the Department of

Commerce. The package was shipped to CHEERWAY Corporation, located at 1432 Forest Glen Drive, Unit 65, Hacienda Heights, CA 91745 via United Parcel Service (UPS) overnight delivery.

32. On or about January 9, 2009, TSU faxed to RFMW an executed Letter of Assurance and a completed End Use/End-User Statement. In the End Use/End User Statement, TSU stated that the end user for part TGA4517 was Cisco Systems in San Jose, California.

33. On or about January 9, 2009, agents of the Federal Bureau of Investigation conducted surveillance at the CHEERWAY location. I learned from FBI SA John Wallick that at approximately 12:40 PM, UPS delivered the RFMW package at the CHEERWAY location. At approximately 5:40 PM, Betty BAI, the occupant of the location, arrived, picked up the package and took the package inside the premises.

G. SEARCH OF CHEERWAY CORPORATE ADDRESS AND INTERVIEW OF BAI

34. On or about January 9, 2009, the Honorable Jeffrey W. Johnson, United States Magistrate Judge authorized a search warrant for the business address of CHEERWAY, located at 1432 Forest Glen Drive, Unit 65, Hacienda Heights, California.

35. On or about January 10, 2009, federal agents executed the search warrant for the CHEERWAY business address. During a

search of the premises, they recovered unopened the package sent by RFMW on January 8, 2009, containing the TGA4517 part.

Additionally, agents found invoices from RFMW for other shipments to CHEERWAY.

36. That same day, January 10, 2009, OEE SA Zaborowski, FBI SA Wallick, and I interviewed BAI, who was present during the search, with the assistance of an FBI Mandarin interpreter. The following information was obtained from BAI:

a. BAI has lived at the premises since 2003. She moved to Beijing for a brief period and then returned in 2005 and has lived at the premises ever since;

b. BAI stated that she began receiving packages at her residence on behalf of CHEERWAY and TSU six months ago;

c. BAI stated that TSU approached her about starting a business of buying and selling to China and then registered the business, Cheerway, in her name using her address;

d. She described that she either would hold onto the packages sent to her residence for CHEERWAY until TSU arrived in the United States and give them to him, or TSU would instruct her to open the packages and consolidate their contents into one box and then mail the box to TSU, via U.S. Postal Service, to an address in China. TSU instructed BAI to describe the contents of

the boxes she would sending to China as "samples" on custom declaration forms. BAI explained that if the consolidated box was too big to mail, then TSU instructed her to go to a delivery consolidator to have the box delivered to China. BAI said Tsu had her use a delivery consolidator because it was cheaper;

e. She said that when she opened the packages addressed to CHEERWAY she would throw away the invoices;

f. BAI showed us the address she sent the packages to in China. (An FBI interpreter present for the interview informed me that the address, which was written in Chinese, was an address in Beijing and was addressed to TSU, using his Chinese name).

g. BAI could not recall how many packages she had received for TSU;

h. BAI said she does not make any money from TSU and that TSU only compensates BAI for her expenses via Western Union wire transfers;

i. BAI acknowledged that TSU used her credit card to purchase items which BAI then sent to him in China;

j. With respect to the package that arrived the day before, January 9, 2009, BAI said that she was awaiting TSU's instructions about what to do with the package. She also

admitted that she had met TSU for lunch on January 9, 2009, and he had informed her that a package would be arriving that day;

k. When asked what was in the packages she was forwarding to TSU in China, BAI described them as "chips;"

l. BAI stated that TSU was staying at the Commerce Casino Hotel.

H. January 10, 2008 INTERVIEW OF TSU

37. Based on the information provided by BAI, OEE Carlos Olivo contacted the Commerce Casino Hotel and learned that in fact TSU was staying at the hotel.

38. SA Zaboroswki and other agents went to the Commerce Casino Hotel. TSU was located in the gambling area of the hotel. Shortly thereafter, SA Zaborowski and FBI SA John Pae had TSU summoned to his hotel room by hotel security, and asked to speak to him about a report received from a local electronics component manufacturer, Aeroflex Corporation, regarding CHEERWAY. SA Zaborowski identified himself as a federal agent and informed TSU that he was under no obligation to talk to them and that he was not under arrest. TSU agreed to talk to the agents in his hotel room. Present for the interview in TSU's hotel room was FBI Language Specialist Edward Wu and FBI SA John Pae. The following information was learned from TSU:

a. When asked about CHEERWAY, TSU stated that CHEERWAY was his company and that Betty Bai was his partner. TSU stated that CHEERWAY also had an office in Alhambra, California but he used BAI's address as an office location. TSU stated that CHEERWAY had no other business locations;

b. When asked for the specific business address in Alhambra, TSU related that the company did not actually have a location but rather was in the process of negotiating the rent price for an office space there;

c. TSU stated that CHEERWAY was a consulting and design firm that utilized a manufacturing facility called TRM (Technical Research and Manufacturing) located in New Hampshire. He added that CHEERWAY did contract manufacturing for military and space programs;

d. TSU provided a business card which read, "Cheerway Corporation, We are glad to serve the space, defense and electronic industry." The card listed TSU as Vice President and CTO, listed BAI's address as the business location, and listed TSU's email address as williamtsu47@yahoo.com;

e. TSU stated that he spends approximately ninety percent of his time in Connecticut and the remaining ten percent in California. When questioned about his international travel,

TSU said he recently took a trip to China to see the Olympic Games;

f. When asked if he had a laptop with him, TSU replied that he did not. He related that he used the hotel's business center's computer for Internet access and email and that he had no use for a laptop while he was there;

g. Providing more specifics about CHEERWAY, TSU said that his primary business was in the digital microwave field and that the company is currently doing business with Cisco.

h. TSU stated that CHEERWAY does not operate under any other names and that they conduct business with Cisco through an unnamed intermediary who was employed there;

i. TSU acknowledged doing business with RFMW. When asked why he was reluctant to provide RFMW with information concerning the New Hampshire facility, TSU stated that he did not want New Hampshire to know where the parts came from;

j. TSU stated that RFMW sent components purchased by CHEERWAY to Betty Bai in Hacienda Heights. TSU said BAI then sent the packages to his residence in Connecticut;

k. TSU was then asked about his export activity and told that Cisco had stated that it had no contracts with

CHEERWAY. In response, TSU stated that he did not do any exports;

l. When asked about his frequent travel to China, TSU said he traveled there to visit a girlfriend in Beijing;

m. TSU denied receiving any business-related packages from BAI while he was in China. If BAI sent him something in China, TSU said it would have been vitamins or non-business related goods;

n. When questioned about his order with RFMW, TSU said that he last purchased Triquint parts from RFMW two months ago;

o. When asked about his last correspondence with RFMW, he said it was on January 9, 2009, and that he was inquiring about pricing and orders pending;

p. At this point in the interview, TSU was then told that the information he was providing conflicted with information learned during an investigation and that he was suspected of shipping electronic components to the PRC. When asked what sort of applications his exports were supporting in the PRC, military or civilian, TSU answered that he did not know the applications for his exports. TSU stated that he sold to a distributor "over there."

q. When asked why he was providing false information to the manufacturers he was buying from, TSU said he provided false end user information to get better pricing on components he was buying. He also said that the manufacturers may not have sold the components to him if he told them they would be exported to China;

r. TSU then stated that all of the components he purchased were ultimately exported to China, either through shipping by Betty BAI or hand carrying them himself on an international flight;

s. TSU said he worked for a company in China called DIMIGAT in Beijing. TSU said he does not own the company. Instead, the company was owned by Liu Ping;

t. TSU admitted that he never applied for an export license from the U.S. government. He provided two reasons for not applying - he did not know how to apply and he was trying to save time;

u. Asked to describe the first time he shipped commodities to China that needed an export license, TSU said it was last July when he shipped "Triquint parts, 100 pieces of the TGA 40-something." He said he could not remember the exact part number and offered TGA4036 as a possibility. TSU acknowledged

that the distributor had notified him that these parts required an export license;

v. TSU explained that he shipped the parts without a license because his company did not have much business at the time;

w. TSU said that BAI received these components in Hacienda Heights and sent them to TSU in China at his request;

x. TSU stated that BAI had no knowledge of any licensing requirements and was merely following his instructions;

y. When asked about other shipments to China that required a license, TSU said he believed that, on one occasion, he hand carried an unknown quantity of Triquint part TGA4517 aboard a flight to China and that BAI had shipped items to him on a total of three occasions;

z. He confirmed that all four shipments occurred within the past eight months, but he could not remember exact dates;

aa. When asked about the Letters of Assurance he had signed, TSU said he did not read them prior to signing, but then said he probably did not read all or it. TSU added, "Nobody reads the fine print." When asked if he kept a copy of the form he signed, TSU said, "I don't want to keep that stuff";

bb. TSU said he planned to stay in the United States until after the Chinese New Year, at which time he planned to return to China. TSU said he has a residence there;

cc. TSU stated that he intended to continue exporting restricted items to China without a license until his retirement pay started, sometime after his 62nd birthday.

39. After obtaining this information, I asked TSU's permission to search his hotel room. TSU consented. During the search, FBI SA Pae found a laptop computer. TSU admitted that the computer was his and gave consent for its search.

40. At this point in the interview, SA Zaborowski asked TSU if he could audio tape his statements to have an accurate record of the interview. TSU agreed to be recorded. During the recorded interview, TSU was advised of his Miranda rights and asked if he was willing to waive those rights and talk to the agents. TSU waived his rights and agreed to talk to the agents. During this post-Miranda interview, TSU repeated what he had said to the federal agents earlier. Specifically, that he had arranged for export-controlled items to be mailed to him in China without first obtaining a license.

41. After the post-Miranda interview was completed, TSU was placed under arrest and transported to the Metropolitan Detention Center.

I. Review of TSU's emails to RFMW

42. On or about January 11, 2009, I conducted an additional review of the email contents of TSU's Yahoo! email account. My review of TSU's Yahoo! account contents revealed the following:

a. On or about February 21, 2008, TSU submitted a request for a quote for 100 pieces of TGA 4036 from RFMW. TSU placed his request for quote via email;

b. On or about February 21, 2008, RFMW responded to TSU writing,

[Part number] TGA4036 has an ECCN of 3A001.B.2.D which means this product is controlled for export outside of the United States by the US Department of Commerce and may require an Export License. Before we can quote this part, we will need an End User Statement completed....

c. On or about March 5, 2008, TSU provided an end user statement to RFMW indicating that the end user of the TGA4036 was Cisco Systems, Inc, Sprint, Nextel and Verizon and that the end use of the products was "Point to point Digital Microwave Radio for Cellular Wireless Distribution network."

d. On or about March 5, 2008, , RFMW responded to TSU and provided a quote for 100 pieces of TGA4036. RFMW also advised TSU that this part was export controlled and that a license was required if the part was being exported;

e. On or about March 20, 2008, TSU asked RFMW about purchasing another 100 pieces of TGA4036 (for a total of 200 pieces);

f. On or about March 25, 2008, TSU submitted a purchase order for CHEERWAY ordering 200 pieces of Triquint's TGA4036 from RFMW. TSU placed his order via email;

g. On or about April 10, 2008, RFMW shipped 100 pieces of Triquint's TGA4036 to CHEERWAY Corporation, 1432 Forest Glen Drive, Unit 65, Hacienda Heights, California, BAI's residence;

h. On or about April 13, 2008, TSU emailed BAI. In his email, he wrote:

For my package, please put both parts in one package and ship to me as samples. And ship to me using the fastest way. The invoice and certificates for both package you can put them in a envelope and send them to me separate by airmail.

J. No Record of Export Licenses for CHEERWAY, TSU or BAI FOR EXPORT OF TGA 4036

43. I know that TriQuint's TGA 4036 is a compact Medium Power Amplifier Monolithic Microwave Integrated Circuit (MMIC) designed for point-to-point communications and instrumentation systems.

44. Further, I know that TGA 4036 is export restricted under ECCN 3A001 for National Security reasons to the PRC and that the export of such items to the PRC would indeed require prior approval from the Department of Commerce in the form of a Validated Export License.

45. I checked the Export Control Automated Support System ("ECASS") during the course of this investigation, the most recent time being or about January 9, 2009. Based on my training and experience, I know that ECASS is a BIS database that, as well as other functions, tracks and records information and/or applications submitted by companies and/or persons for export licenses and commodity classifications. A search of ECASS indicated that neither CHEERWAY nor TSU submitted information or applied for an export license for TGA4036.

Conclusion

46. Based on the foregoing facts, I submit that there is probable cause to believe that WILLIAM TSU has knowingly exported or attempted to export restricted integrated circuits in violation of IEEPA, 50 U.S.C. §§ 1701 - 1706, and the Export Administration Regulations, 15 C.F.R. Parts 730 - 774.

Willie Lo
Special Agent
United States
Department of Commerce
Bureau of Industry and Security
Office of Export Enforcement

Subscribed to and sworn before me
on this _____ day of January, 2009

THE HONORABLE PAUL L. ABRAMS
United States District Court Magistrate Judge