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BROOKLYN OFFICE

SLR:LDM  
F#2018V00423

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

– against –

APPROXIMATELY ONE MILLION TWO HUNDRED FIFTY EIGHT THOUSAND SIX HUNDRED EIGHTY EIGHT DOLLARS, MORE OR LESS, THAT KINGLY WON INTERNATIONAL CO., LTD. ATTEMPTED TO TRANSFER TO JOINT STOCK INDEPENDENT PETROLEUM COMPANY ON OR ABOUT JUNE 2, 2017, AND ALL PROCEEDS TRACEABLE THERETO,

Defendant *in rem*.

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**VERIFIED COMPLAINT  
IN REM**

Civil Action No.

**CV 18 - 5216**

**COGAN, J.**

Plaintiff United States of America, by and through its undersigned counsel, for its complaint alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action *in rem* brought by the United States to forfeit approximately one million two hundred fifty eight thousand six hundred eighty eight dollars (\$1,258,688), more or less, that Kingly Won International Co., Ltd. (“Kingly Won”) attempted to send, via wire transfer, to Joint Stock Independent Petroleum Company (“IPC”) on or about June 2, 2017, and all proceeds traceable thereto (the “Defendant Funds”).

2. As set forth herein, the Defendant Funds are subject to forfeiture pursuant to: (a) 981(a)(1)(I), as property involved in and/or traceable to a violation or an attempted violation of section 104(a) of the North Korea Sanctions and Policy Enhancement Act of 2016 (“NKSPEA”), 22 U.S.C. § 9201 *et seq.*; and (b) 18 U.S.C. § 981(a)(1)(A), as property involved in and/or traceable to a transaction intended to promote a violation of (i) the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. 1701 *et seq.*, and (ii) the NKSPEA.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and 1355.

4. Venue is proper pursuant to 28 U.S.C. §§ 1355 and 1395.

### **STATUTORY BACKGROUND**

#### **A. The International Emergency Economic Powers Act and the Executive Orders Issued Thereunder**

5. Under IEEPA, the President of the United States was granted authority to deal with unusual and extraordinary threats to the national security and foreign policy of the United States. Pursuant to IEEPA, the President may declare a national emergency through Executive Orders that have the full force and effect of law. It is a felony to willfully violate, attempt to violate, or conspire to violate any order or regulation issued under IEEPA. 50 U.S.C. § 1705(a).

6. On November 14, 1994, the President issued Executive Order (“E.O.”) 12938, which included the finding that the “proliferation of nuclear, biological and chemical weapons (‘weapons of mass destruction’) and of the means of delivering such weapons,

constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.” E.O. 12938 further declared a national emergency to deal with that threat.

7. On June 28, 2005, the President issued E.O. 13382, which took additional steps with respect to the national emergency described and declared in E.O. 12938 to target proliferators of weapons of mass destruction (“WMD”) and their support networks and deny designated WMD proliferators access to the U.S. financial and commercial system. E.O. 13382 blocked the property of persons engaged in WMD proliferation activities and their support networks and denied designated proliferators access to the U.S. financial and commercial systems.

8. The U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) administers this Non-Proliferation Sanctions program. The U.S. Department of the Treasury, together with the U.S. Department of State, is authorized to designate additional WMD proliferators and their supporters under the authorities conferred by E.O. 13382. When OFAC designates persons (individuals and entities) under the Non-Proliferation Sanctions programs, the persons are added to a list of Specially Designated Nationals (“SDN’s”). *See* 31 C.F.R. § 544.201(a). Among other things, persons added to the SDN list are prohibited from using of the U.S. financial system. 31 C.F.R. § 544.405. This prohibition includes the processing of international wire transfers denominated in U.S. dollars where such wire transfers originate at foreign financial institutions that utilize correspondent accounts within the United States and maintained by U.S. financial institutions to conduct such transactions. “Correspondent accounts” and “correspondent relationships” are both defined in 31 C.F.R. § 1010.605. The use and role of correspondent banks is discussed in greater detail in paragraph 16, below.

9. As part of E.O. 13382, the President identified a number of North Korean entities as WMD proliferators. These entities were listed in the Annex to E.O. 13382 as being subject to U.S. sanctions and were subsequently designated by OFAC for inclusion on the SDN list. Further, pursuant to E.O. 13382, a non-U.S. person cannot cause the provision of financial or other services through the United States by a U.S. person or entity for the benefit of a person or entity on the SDN list, except as authorized or licensed by OFAC.

10. On June 27, 2008, the President issued E.O. 13466, “Continuing Certain Restrictions With Respect to North Korea and North Korean Nationals.” E.O. 13466 included the President’s finding that “the current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula constitute an unusual and extraordinary threat to the national security and foreign policy of the United States . . . .” E.O. 13466 continued certain restrictions with respect to North Korea that previously had been imposed under the authority of the Trading With the Enemy Act of 1917. Since 2008, the President has issued subsequent E.O.s, including E.O.s 13551, 13570, 13687, and 13722, expanding the national emergency involving North Korea and taking additional steps with respect to that emergency, including blocking the property of certain individuals and entities and prohibiting certain types of transactions.

11. On April 13, 2009, OFAC issued the Weapons of Mass Destruction Proliferators Sanctions Regulations in order to implement E.O. 13382. *See* 31 C.F.R. Part 544. Pursuant to E.O. 13382 and the regulations, a non-U.S. person cannot cause the provision of financial or other services through the United States by a U.S. person/entity for

the benefit of a person or entity on the SDN list, except as authorized or licensed by OFAC. See 31 C.F.R. § 544.405.

B. The North Korea Sanctions and Policy Enhancement Act of 2016

12. On February 18, 2016, President Obama signed into law the NKSPEA, codified at 22 U.S.C. § 9201 *et seq.*, to address the North Korean WMD threat.

13. Within the NKSPEA, Congress found that “[t]he Government of North Korea has been implicated repeatedly in money laundering . . . .” 22 U.S.C. § 9201(a)(3). The NKSPEA states that the President “shall designate” any person that “knowingly, directly or indirectly, engages in money laundering . . . that supports the Government of North Korea or any senior official or person acting for or on behalf of that Government.” 22 U.S.C. § 9214(a)(6).

14. The NKSPEA also directs the President to block property belonging to the North Korean government, the Korean Workers’ Party, or a person acting on their behalf, if it comes under U.S. jurisdiction.

C. The Bank Secrecy Act and USA PATRIOT Act

15. According to the U.S. Department of the Treasury, the global financial system, trade flows, and economic development rely on correspondent banking relationships. To protect this system from abuse, U.S. financial institutions must comply with anti-money laundering requirements set forth in the Bank Secrecy Act (“BSA”), as well as sanctions programs administered by OFAC. The Financial Crimes Enforcement Network (“FinCEN”), a bureau of the U.S. Department of the Treasury, is responsible for administering the Bank Secrecy Act in furtherance of its mission to safeguard the U.S. financial system from illicit use.

16. Nearly all U.S. dollar transactions conducted by foreign financial institutions are processed via corresponding bank accounts in the United States. Correspondent bank accounts are broadly defined to include any account established for a foreign financial institution to receive deposits from, or to make payments or disbursements on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution. *See* 31 C.F.R. § 1010.605. The Bank Secrecy Act requires U.S. financial institutions to take anti-money laundering measures for foreign financial institutions engaged in correspondent banking of U.S. dollar transactions.

17. The Bank Secrecy Act broadly defines foreign financial institutions to include dealers of foreign exchange and money transmitters in a manner not merely incidental to their business. *See* 31 C.F.R. § 1010.605(f).

18. Section 311 of the USA PATRIOT Act, codified at 31 U.S.C. § 5318A, as part of the BSA, gives FinCEN a range of options called “special measures” that can be adapted to target specific money laundering and terrorist financing concerns. In order to protect the integrity of the U.S. financial system, a Section 311 finding can legally prevent U.S. financial institutions from engaging in any type of financial transaction with an entity within the jurisdiction deemed an area of money-laundering concern. A Section 311 finding and the related special measures are implemented through various orders and regulations incorporated into 31 C.F.R. Chapter X. A violation of 31 U.S.C. § 5318A is punishable criminally pursuant to 31 U.S.C. § 5322.

19. In May 2016, FinCEN made a Section 311 finding against North Korea. Specifically, FinCEN’s finding deemed the entire North Korean economy as a

primary jurisdiction of money-laundering concern. *See Federal Register*, Vol. 81, No. 107 (June 3, 2016).

20. In November 2016, FinCEN implemented the most severe special measure against the entire North Korea economy. *See Federal Register*, Vol. 81, No. 217 (November 9, 2016). The special measure bars domestic and foreign financial institutions from maintaining U.S. correspondent accounts for any North Korean financial institution or party acting on its behalf. The special measure also requires covered financial institutions to take reasonable steps to not process a transaction for the correspondent account of a foreign bank in the United States if such a transaction involves a North Korean financial institution. Because of the finding that the entire North Korea financial sector was a primary money-laundering concern, FinCEN cut all North Korean financial institutions – and entities acting on their behalf - off from any trade in U.S. dollar transactions via correspondent banking.

21. FinCEN targeted the entire North Korean economy because it is comprised entirely of state-controlled financial institutions that use “front companies to conduct international financial transactions that support the proliferation of weapons of mass destruction [] and the development of ballistic missiles in violation of international and U.S. sanctions,” and because North Korean financial institutions are subject to “little or no bank supervision or anti-money laundering or combating the financing of terrorism [] controls.” *See Federal Register*, Vol. 81, No. 217 at 78715.

22. FinCEN’s Section 311 action included a finding that North Korean financial institutions continued to access the U.S. financial system, in violation of the U.S. sanctions. The finding further stated that millions of U.S. dollars’ worth of illicit transactions were flowing through U.S. correspondent accounts in spite of the sanctions

because of the coordinated use of money laundering techniques to conceal North Korea's involvement and to avoid the processing of the payments by North Korean financial institutions. Specifically, FinCEN found that:

North Korea continues to advance its nuclear and ballistic missile programs in violation of international treaties, international censure and sanctions measures, and U.S. law. North Korea does this using an extensive overseas network of front companies, shell companies, joint ventures, and opaque business relationships. North Korea conducts almost no banking [transactions] in true name in the formal financial system given that many of its outward facing agencies and financial institutions have been sanctioned by the United States, the United Nations, or both.

*See Federal Register, Vol. 81, No. 106 at 35442.*

23. While none of North Korea's financial institutions maintain correspondent accounts with U.S. financial institutions, North Korea does have access to the U.S. financial system through a system of unlawful front companies, business arrangements, and representatives that obfuscate the true originator, beneficiary, and purpose of transactions. Moreover,

although U.S. and international sanctions have served to significantly isolate North Korean banks from the international financial system, the North Korean government continues to access the international financial system to support its [weapons of mass destruction] and conventional weapons programs. This is made possible through its use of aliases, agents, foreign individuals in multiple jurisdictions, and a long-standing network of front companies and North Korean embassy personnel which support illicit activities through banking, bulk cash, and trade. Front company transactions originating in foreign-based banks have been processed through correspondent bank accounts in the United States and Europe." *Id.*

24. Further, publicly available information indicates that designated North Korean companies continue to transact in U.S. dollars via front companies. The U.N.

Security Council's Panel of Experts (the "Panel of Experts"), which was established to investigate compliance with North Korea sanctions, has noted that transactions originating in foreign banks have been processed through correspondent accounts in the United States via front companies, which are "often registered by non-nationals, who also use indirect payment methods and circuitous transactions dissociated from the movement of goods or services to conceal their activity." 2016 Report of the Panel of Experts, at 62. Such front companies are instructed to strip all information tying their U.S. dollar transactions to North Korea, to prevent the Treasury Department from blocking the transactions. *Id.* at 66.

D. Money Laundering Statutes

25. Pursuant to 18 U.S.C. § 1956(a)(2)(A), it is unlawful to transport, transmit, and transfer, or attempt to transport, transmit, and transfer a "monetary instrument or funds" to a place in the United States from or through a place outside the United States with the intent to promote the carrying on of specified unlawful activity. Section 1956(a)(2)(A) does not require that the laundered transaction involve illicit funds because the statute explicitly excludes the term "proceeds."

26. Pursuant to 18 U.S.C. § 1956(c)(7)(A), the term "specified unlawful activity," includes violations of 18 U.S.C. § 1343 (relating to wire fraud) and 18 U.S.C. § 1344 (relating to bank fraud). As noted above, U.S. financial institutions are barred, pursuant to the section 311(a) special measure, from engaging in financial transactions with North Korean financial institutions. FinCEN has noted in its findings that North Korea makes "extensive use of deceptive financial practices, including the use of shell and front companies to obfuscate the true originator, beneficiary, and purpose behind its transactions," in part "to evade international sanctions." *See* Federal Register, Vol. 81, No.

217 at 78716, 78718. As North Korean entities have attempted to circumvent the section 311(a) ban by using foreign front companies to engage in financial transactions on their behalf, such financial transactions would be in violation of 22 U.S.C. § 9214, if the parties openly acknowledged the involvement of the North Korean entities. Instead, the true North Korean counterparties to these transactions remain concealed in order to allow the U.S. dollars transactions to be processed. This constitutes wire fraud, as the false transactions occur via wire, and are done in part to defraud the U.S. Treasury Department, which has forbidden such transactions. This also constitutes wire fraud and bank fraud, as the false transactions occur via wire, and are done in part to defraud U.S. financial institutions, which are barred from conducting such transactions, and could face civil and criminal penalties for not detecting these transactions.

27. Pursuant to 18 U.S.C. § 1956(c)(7)(D), the term “specified unlawful activity,” also includes violations of IIEEPA and section 104(a) of NKSPEA (codified at 22 U.S.C. § 9214(a)).

E. Forfeiture Statutes

28. Pursuant to 18 U.S.C. § 981(a)(1)(I), any property, real or personal, involved in a violation or attempted violation of section 104(a) of the NKSPEA is subject to civil forfeiture.

29. Pursuant to 18 U.S.C. § 981(a)(1)(A), any property, real or personal, involved in a money laundering transaction or attempted money laundering transaction in violation of 18 U.S.C. § 1956, or any property traceable to such property, is subject to civil forfeiture.

## **FACTUAL BACKGROUND**

A. **Overview of the Unlawful Facilitation of Transactions Involving North Korea and Sanctioned Entities by Front Companies Through The Use of Correspondent Accounts at U.S. Financial Institutions**

30. An investigation of unsanctioned financial facilitators, and in particular front companies, located outside of North Korea has revealed that these entities have conducted financial transactions in U.S. dollars for the purpose of advancing procurement and financial activity benefiting the government of North Korea in contravention of U.S. and United Nations prohibitions on such activity.

31. To obtain goods and services in the global market place, North Korea needs access to U.S. dollars, the currency frequently required by international vendors. North Korea is known to rely on U.S. dollars to conduct international financial transactions. In fact, the United States House of Representatives Foreign Affairs Committee released a report which concluded that North Korea remains dependent on its access to the international financial system, which in turn reflects a dependency on the U.S. dollar. *See* House Rept. 114–392, at 18 (January 11, 2016). This is because “[t]he vast majority of international transactions are denominated in dollars, the world’s reserve currency.” *Id.* North Korea continues to transact in U.S. dollars for many of its international and domestic business transactions, by hiding “its dollar transactions within the dollar-based financial system using false names, shell companies, and other deceptive practices . . . .” *Id.*

32. As reported by the Panel of Experts, transactions originating in foreign banks have been processed through correspondent accounts in the United States via front companies, which are “often registered by non-nationals, who also use indirect payment methods and circuitous transactions dissociated from the movement of goods or services to

conceal their activity.” 2016 Report of the Panel of Experts, at 62. North Korean front companies are instructed to strip all information tying their U.S. dollar transactions to North Korea in order to prevent the Treasury Department from blocking the transactions. *Id.* at 66.

33. The investigation has revealed that front companies and other North Korean financial facilitators frequently establish and maintain offshore U.S. dollar accounts for the purposes of remitting wire transfers denominated in U.S. dollars on behalf of sanctioned North Korean entities. When the front companies and other facilitators engage in U.S. dollar transactions overseas, these funds must still be cleared through a U.S. financial institution. These wire transfers often involve the remittance of payments denominated in U.S. dollars originated from foreign financial institutions located outside the United States which clear through established correspondent banking relationships with U.S. financial institutions in the United States.

34. Once the wire transfers are cleared through the U.S. financial institutions, payments are transmitted to offshore U.S. dollar accounts maintained by front companies at foreign financial institutions.

35. The front companies engage in these transactions in support of purchases ultimately benefiting sanctioned North Korean end users, including the North Korea military and North Korean weapons programs. On June 1, 2016, the Treasury Department noted that “North Korea uses state-controlled financial institutions and front companies to conduct international financial transactions that support the proliferation and development of WMD and ballistic missiles.” <https://www.treasury.gov/press-center/press-releases/Pages/j10471.aspx>.

36. Further, the use of front companies was recently discussed in the 2017 Report of the Panel of Experts. *See* 2017 Report of the Panel of Experts, at 37-38. The web of front companies was also highlighted by the designation of, and the filing of a criminal complaint against, Dandong Hongxiang Industrial Development Co. Limited (“Dandong Hongxiang”). OFAC designated Dandong Hongxiang for acting for or on behalf of Korea Kwangson Banking Corporation (“Korea Kwangson Bank”), which is a North Korean bank that was previously designated by OFAC and the U.N. for providing financial services for North Korea’s WMD proliferators. The investigation revealed that Dandong Hongxiang was acting in part as a front for Korea Kwangson Bank to allow it to engage in U.S. dollar transactions, which it otherwise could not do.

B. Tsang, IPC and the Attempted Transaction Involving the Defendant Funds

37. Yung Yuan Tsang (“Tsang”), also known as Niel Tsang, is a citizen and resident of the Republic of China (“Taiwan”). Tsang controls and operates Kingly Won, the company responsible for attempting to send the Defendant Funds to IPC, as described below. Tsang also controls the company Pro-Gain Group Corporation (“Pro-Gain”).

38. On or about June 1, 2017, OFAC designated IPC as an SDN pursuant to E.O. 13722. In the related press release, it was noted that IPC had signed a contract to provide oil to North Korea and reportedly “shipped over \$1 million worth of petroleum products to North Korea.” It was also noted that IPC may have been further involved in the circumvention of North Korean sanctions.

39. On or about June 2, 2017, Tsang, through Kingly Won, attempted to transfer the Defendant Funds via wire transfer to IPC through an account held in Kingly Won's name at Citibank, Taiwan. Citibank N.A. subsequently blocked the wire transfer of the Defendant Funds based upon OFAC's designation of IPC as an SDN at or around the time of Tsang's attempted wire transfer.

40. After the attempted wire transfer of the Defendant Funds to IPC was blocked, Tsang contacted OFAC in an effort to have the Defendant Funds released. On or about September 20, 2017, Tsang appeared for a voluntary interview with U.S. government officials, including, among others, representatives from OFAC. During this interview, Tsang admitted that he was aware of U.S. sanctions against North Korea and, specifically, that financial institutions could not process transactions for the benefit of sanctioned individuals or entities. Tsang, however, claimed that he was not aware of any connection between IPC and North Korea.

41. In the interview, Tsang claimed that the Defendant Funds destined for IPC were provided to him by a Chinese company, Haihua Trade Group Co., Ltd., which directed the transaction to purchase petroleum products from IPC that were to be shipped to China. Tsang, however, would not provide further details. Notably, documents concerning the transaction, which Tsang provided, indicate that the petroleum products that were to be purchased from IPC would be delivered via the Khasan railway, which links Vladivostok, Russia, to Rason, North Korea over the Tumen river. Khasan is the last Russian station before the North Korean border. As such, Tsang was or should have been aware that the petroleum products that were to be purchased with the Defendant Funds were destined for North Korea.

42. On February 23, 2018, OFAC sanctioned and designated as SDNs Tsang, Kingly Won, Pro-Gain, and numerous shipping and trading companies in an effort to target the unlawful and deceptive practices of shipping petroleum and other products to North Korea. In support of its designation, OFAC specifically referenced the above-described attempted transaction involving the Defendant Funds.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR RELIEF**

(Forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(I))

43. The United States incorporates by reference the allegations set forth in paragraphs 1 to 42 above as if fully set forth herein.

44. The Defendant Funds constitute property involved in a violation or an attempted violation of section 104(a) of the NKSPEA.

45. The Defendant Funds are therefore subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(I).

#### **SECOND CLAIM FOR RELIEF**

(Forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(A))

46. The United States incorporates by reference the allegations set forth in paragraphs 1 to 42 above as if fully set forth herein.

47. The Defendant Funds constitute property involved in and/or traceable to a transaction intended to promote a violation of IEEPA, in violation of 18 U.S.C. § 1956(a)(2)(A).

48. The Defendant Funds are therefore subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(A).

**THIRD CLAIM FOR RELIEF**

(Forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(A))

49. The United States incorporates by reference the allegations set forth in paragraphs 1 to 42 above as if fully set forth herein.

50. The Defendant Funds constitute property involved in and/or traceable to a transaction intended to promote a violation of section 104(a) of the NKSPEA, in violation of 18 U.S.C. §1956(a)(2)(A).

51. The Defendant Funds are therefore subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(A).

**CONCLUSION**

WHEREFORE, plaintiff United States requests that: the Court issue a Warrant for the arrest of the Defendant Funds; the Defendants Funds be forfeited and condemned to the use and benefit of the United States; and plaintiff be awarded its costs and disbursements in this action and for such other and further relief as this Court deems just and proper.

Dated: Brooklyn, New York  
September 4, 2018

RICHARD P. DONOGHUE  
United States Attorney  
Eastern District of New York

By:   
\_\_\_\_\_  
Laura D. Mantell  
Assistant United States Attorneys  
(718) 254-6253

VERIFICATION

Katelyn M. Heller, hereby declares as follows:

1. I am a Special Agent with the Federal Bureau of Investigation.
2. I have read the within verified complaint *in rem* and know the contents thereof.
3. I believe the matters contained in the within verified complaint *in rem* are true and accurate to the best of my knowledge, information and belief.
4. The source of my information and the grounds for my belief are personal knowledge and information provided by other law enforcement officers and the official files and records of the United States of America.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: Brooklyn, New York  
September 4, 2018

  
Katelyn M. Heller  
Federal Bureau of Investigation