

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

JENG SHIH

also known as JAY SHIH

DOB: x/xx/xxxx

I, Ashley E. Schrank, being first duly sworn, depose and state as follows:

AFFIANT'S BACKGROUND

1. I am currently a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI"), and have served in this capacity since March, 2009. I am currently assigned to the Counter-Proliferation Investigations group. My duties include the enforcement of federal laws involving the export of U.S.-origin commodities to embargoed countries. As a Special Agent of HSI, I have received advanced training in Counter-Proliferation Investigations at the Federal Law Enforcement Training Center, including the scope and application of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C § 1705, and the Iranian Transactions Regulations ("ITR"), 31 C.F.R. §§ 560.203 and 560.204. I have conducted and participated in several investigations of the above listed laws and regulations. Through my training, education, and experience—which has included (i) debriefing cooperating witnesses concerning violations of federal export laws, financial reporting regulations, and laundering the proceeds of criminal activities; (ii) reviewing financial records that reflect the structuring of deposits and withdrawals; (iii) conducting surveillance of individuals engaged in the violation of federal law; and (iv) executing search warrants on suspect premises—I have become familiar with the manner in which commodities are exported from the United States directly or indirectly to embargoed countries, like Iran, to avoid both licensing requirements and detection by law enforcement.
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 law enforcement officials. I also have reviewed documents obtained during the course of the investigation. 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 and by private citizens. This affidavit is being submitted for the limited purpose of supporting a criminal complaint. I am setting forth only those facts and circumstances necessary to establish probable cause for the issuance of the requested complaint. Unless otherwise indicated, all written and oral statements referred to herein are set forth in substance and in part, rather than verbatim.

PURPOSE OF AFFIDAVIT

3. This affidavit is in support of a criminal complaint charging that **JENG SHIH, also known as JAY SHIH**, has violated IEEPA (50 U.S.C. § 1705) by conspiring to export

computers from the United States to Iran without first having obtained the necessary export license.

EXPORT CONTROL LAWS AND REGULATIONS

4. The International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-1706, authorized the President of the United States (“the President”) to impose economic sanctions on a foreign country in response to an unusual or extraordinary threat to the national security, foreign policy or economy of the United States when the President declared a national emergency with respect to that threat. Pursuant to the authority under the IEEPA, the President and the executive branch have issued orders and regulations governing and prohibiting certain transactions with Iran by U.S. persons or involving U.S.-origin goods.
5. Beginning with Executive Order No. 12170, issued on November 14, 1979, the President has found that “the situation in Iran constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and declare[d] a national emergency to deal with that threat.”
6. On May 6, 1995, the President issued Executive Order No. 12959, adopting and continuing Executive Order No. 12170 (collectively, the “Executive Orders”), and prohibiting, among other things, the exportation, reexportation, sale, or supply, directly or indirectly, to Iran of any goods, technology, or services from the United States or by a United States person. The Executive Orders authorized the United States Secretary of the Treasury to promulgate rules and regulations necessary to carry out the Executive Orders. Pursuant to this authority, the Secretary of the Treasury promulgated the Iranian Transactions Regulations (“ITR”), 31 C.F.R. Part 560, implementing the sanctions imposed by the Executive Orders.
7. The ITR generally prohibit any person from exporting or causing to be exported from the United States any good or technology without having first obtained a validated export license from the United States Department of the Treasury, Office of Foreign Assets Control (“OFAC”), which is located in the District of Columbia. The ITR imposed, among others, the following prohibitions:

Section 560.203 - Prohibition of any Transaction to Evade or Avoid the Embargo and any Attempt to Violate the Embargo:

Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions contained in this part is hereby prohibited.

Section 560.204 - Prohibition of any Sale or Supply of any Goods, Technology, Services to Iran or the Iranian Government:

Except as otherwise authorized [by a license issued by OFAC], the exportation, . . . sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran is prohibited, including the exportation, . . . sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that:

(a) Such goods, technology, or services are intended specifically for supply . . . directly or indirectly, to Iran or the Government of Iran . . .

8. Prior to October 15, 2007, Title 50, United States Code, Section 1705 provided:

Whoever willfully violates, or willfully attempts to violate, any license, order, or regulation issued under this chapter shall, upon conviction, be fined . . . , or, if a natural person, may be imprisoned for not more than twenty years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

9. On October 15, 2007, IEEPA was amended to include a criminal conspiracy provision and an increased fine. Title 50, United States Code, Section 1705 now provides in pertinent part:

(a) Unlawful acts

It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this chapter.

* * *

(c) Criminal penalty

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.

FACTUAL BASIS FOR PROBABLE CAUSE

10. It is my experience, and the experience of law enforcement officers with whom I work,

that individuals and companies attempting to circumvent the current U.S. embargo against Iran will export goods from the United States to transshipping companies located in non-embargoed countries, such as the United Arab Emirates (“UAE”), for transshipment to end-users in Iran.

11. In December 2009, as part of an ongoing criminal investigation, HSI-New York identified Sunrise Technology & Trade Corporation (“Sunrise”) as a United States company engaged in the suspected unlawful export of goods from the United States to Iran. Sunrise is a wholesale distributor of computer and electronics products and sells and exports those products around the world. Sunrise is currently located at 33-38 Farrington Street, Flushing, NY 11354.
12. In the course of its criminal investigation, HSI-New York also identified defendant **JENG SHIH, also known as JAY SHIH (“SHIH”)** (DOB: x/xx/xxxx), as one of the principal officers of Sunrise. SHIH established Sunrise in 1994 and is the primary owner and operator of Sunrise’s business. SHIH is a citizen of the United States.
13. Previously, on or around July 3, 2006, Special Agents with the United States Department of Commerce, Office of Export Enforcement (“OEE”) conducted an outreach visit with SHIH at Sunrise’s principal place of business in Flushing, New York. During this outreach visit, OEE agents met SHIH and informed him about the United States laws and regulations governing the export of goods from the United States to other countries, particularly embargoed countries like Iran, and the related licensing requirements. In the course of the visit, OEE agents provided SHIH with a packet of written materials that discussed his obligations under United States export laws and regulations.
14. In April 2010, HSI agents inspected and seized a shipment originating from Sunrise and being shipped by a freight forwarder located in New York (“Freight Forwarder A”) from the United States to a foreign-based freight forwarder located in Dubai, UAE, currently being operated by an Iranian national (“Freight Forwarder B”). The shipment consisted of one hundred and seventy-one laptop computers, one hundred and one of which were made in the United States. The seller on the shipment was listed as “Sunrise Technologies & Trading/Sunrise Technology and Trading, xxxx 3rd Ave., xxx xxxx xxxx, NY xxxxx.” A review of the shipping instructions issued by Sunrise via e-mail to Freight Forwarder A identified the point of contact for the purchasing company (“Purchasing Company A’s POC”) and provided an e-mail address for that person. Electronic communications sent from Purchasing Company A’s POC in May 2010 to Freight Forwarder A further revealed that the e-mails from Purchasing Company A’s POC were being sent from an Internet Service Provider (“ISP”) located in Tehran, Iran.¹

¹ The Internet is a worldwide network of computer systems operated by governmental entities, corporations, and universities. In order to access the Internet, an individual computer user must subscribe to an internet service provider (“ISP”), which operates a host computer system with direct access to the Internet. ISPs provide a variety of online services, including e-mail services, to the general public. Subscribers obtain an e-mail account by registering with the ISP. When an individual computer user uses an e-mail account to send an e-mail, the e-mail is initiated at a computer, transmitted to the subscriber’s ISP, and then transmitted to its final destination. An ISP often has records

15. In April 2010, HSI agents also inspected and seized two shipments originating from Sunrise and being shipped by Freight Forwarder A from the United States to an UAE corporation located in Dubai, UAE (“Purchasing Company B”). The shipments consisted of two hundred and nine laptop computers. The seller listed was “Sunrise Technologies & Trading/Sunrise Technology and Trading, xxxx 3rd Ave, xxx xxxx xxxx, NY xxxxx.” A review of the shipping instructions issued by Sunrise via e-mail to Freight Forwarder A identified the point of contact for Purchasing Company B (“Purchasing Company B’s POC”) and provided an e-mail address for that person. Electronic communications sent from Purchasing Company B’s POC to Freight Forwarder A further revealed that the e-mails from Purchasing Company B’s POC were being sent from an ISP located in Tehran, Iran.
16. On or around May 18, 2010, an HSI Attaché stationed in Dubai conducted an end-use check of the detained shipments at the Dubai business premises of Freight Forwarder B (see para. 14 above). During the course of that contact, the general manager for Freight Forwarder B indicated that Freight Forwarder B routinely exports shipments to customers in Iran. The general manager for Freight Forwarder B acknowledged that Purchasing Company B (see para. 15 above) was a customer of Freight Forwarder B. The general manager further identified the same person identified as Purchasing Company B’s POC above as being his point of contact for Purchasing Company B.
17. In April 2010, as part of a separate and unrelated criminal investigation being undertaken by HSI-San Diego, HSI agents identified a company in Dubai, UAE, involved in the purchase of millions of dollars worth of laptop computers from wholesale distribution companies in the United States for export to Iran, through Dubai (hereinafter referred to as “Company X”). HSI-San Diego also identified Individual A and Individual B, both Iranian nationals, as the primary agents involved in the operation of Company X’s unlawful export business. On or around April 20, 2010, HSI-San Diego agents applied for and obtained a federal search warrant for records of Individuals A and B related to Company X’s business. A review of these records revealed that over the course of several years, beginning in or around 2007, Individuals A and B on behalf of Company X purchased millions of dollars worth of laptops computers from Sunrise through SHIH for shipment by Sunrise to Company X’s business premises in Dubai, and shortly after the computers arrived in Dubai, transshipped them to his end-users in Iran. End-user statements that were filed with the United States Government relating to these shipments, however, indicated that the end-user for the computers was in Dubai, UAE.
18. In September 2010, HSI-San Diego agents interviewed Individual A. Individual A told HSI-San Diego agents that beginning in or around 2005 or 2006, Individual A on behalf

of the Internet Protocol address (“IP address”) used to register the e-mail account and the IP addresses associated with particular logins to the e-mail account. Because every device that connects to the Internet must use an IP address, IP address information can help identify which computers or other devices were used to access the e-mail account and where they are geographically located.

of Company X had purchased millions of dollars worth of laptop computers from SHIH and Sunrise for shipment to Iran, through Dubai. Individual A stated that Sunrise and SHIH are known in the industry to be engaged in the sale and export of wholesale quantities of laptop computers from the United States to companies operating and doing business in Iran, like Company X.

19. In December 2010, Individual A pled guilty in the United States District Court for the District of Columbia to conspiracy to unlawfully export U.S.-origin goods to Iran and defraud the United States in violation of 50 U.S.C. § 1705 (IEEPA) and 18 U.S.C. § 371. As part of the plea, Individual A entered into a cooperation agreement with the United States Government.
20. In a subsequent interview of Individual A in December 2010, by HSI-New York agents, Individual A repeated the information set forth above (see para. 18) and further stated that Individuals A or B, or both, have made numerous purchases of laptop computers from Sunrise through SHIH over the last several years, averaging approximately \$700,000 worth of laptop computers each month. Individual A stated that based on their ongoing business together, as early as in or around 2007 or 2008, SHIH understood that Sunrise was supplying Company X with laptop computers for sale to end-users in Iran. Individual A further stated that in an in-person meeting with SHIH in September 2009, and subsequently in October 2009, Individual A and SHIH openly discussed the fact that the laptop computers Company X purchased from Sunrise were being shipped from the United States through Dubai for end-use and end-users in Iran. SHIH told Individual A that SHIH had completed certain paperwork required to clear Iranian Customs for his other clients doing business in Iran. SHIH also referenced another Iranian businessman known to Individual A and stated that he (i.e., SHIH) was supplying the Iranian businessman with laptop computers for end-use and end-users in Iran.
21. As part of Individual A's ongoing cooperation with the United States Government, Individual A provided HSI-New York agents with documentation related to historical business transactions between Company X and SHIH/Sunrise from December 2009 through June 2010. Among other things, the documentation included correspondence between Individuals A or B, or both, and SHIH concerning the pricing, shipping, and payment terms of the business transactions, invoices from Sunrise, shipment packing lists, airway shipping bills from Sunrise to a freight forwarder in Dubai, and airway shipping bills from a freight forwarder in Dubai to Iran via Iran Air. In summary, all of the transactions involved the shipment of laptop computers by Sunrise from the United States (i.e., New York) to Iran through Dubai. Individual A stated that SHIH was aware that each of the shipments made by Sunrise from the United States was intended for end-use or end-users in Iran at the time the shipments were arranged. The following are examples of some of those shipments, which constitute overt acts in furtherance of the conspiracy:
 - a. On April 9, 2010, Sunrise shipped 368 laptop computers worth \$330,404 from the United States to Company X in Dubai, UAE (Airway Bill ("AWB") #724-8891-

- 3521). On April 17, 2010, Company X transshipped those same 368 computers to Tehran, Iran via Iran Air flight #K5FIR/AV (AWB #096-8487-9351).
- b. On April 28, 2010, Sunrise shipped 158 laptop computers worth \$253,926 from the United States to Company X in Dubai, UAE (AWB #176-7025-8005). On May 5, 2010, Company X transshipped those same 158 computers to Tehran, Iran via Iran Air flight #K5FIR/AV (AWB # 096-8488-6211).
 - c. On May 6, 2010, Sunrise shipped 176 laptop computers worth \$208,806 from the United States to Company X in Dubai, UAE (AWB #724-8891-3672). On May 10, 2010, Company X transshipped the same 176 computers to Tehran, Iran via Iran Air (AWB # 096-8488-6524).
 - d. On May 7, 2010, Sunrise shipped 185 laptop computers worth \$196,603 to Company X in Dubai, UAE (AWB #724-8891-3683). On May 11, 2010, Company X transshipped the same 185 computers to Tehran, Iran via Iran Air (AWB #096-8488-6561).
 - e. On May 28, 2010, Sunrise shipped 256 laptop computers worth \$214,050 to Company X in Dubai, UAE (AWB #176-7025-8020). On June 3, 2010, Company X transshipped the same 256 computers to Tehran, Iran via Iran Air flight #K5FIR/AV (AWB #096-8489-2113).
22. On or around February 2, 2011, Individual A met and conducted a consensually-monitored meeting with SHIH in New York City and Flushing, NY, including at SHIH's home address of 35-40 167th Street, Flushing, NY. During the course of that meeting, Individual A told SHIH that numerous businesspersons operating in Iran were obtaining computers from SHIH and Sunrise, including Individual A's business competitors there. SHIH acknowledged supplying computers via Sunrise to persons engaged in the business of reselling those computers in Iran, but also stated that he was looking for other business opportunities, which is why he moved to Dubai part-time to start a new company there. During the meeting, SHIH also discussed the fact that the United States Government (i.e. CBP) had detained certain Sunrise computer shipments (see detained shipments referenced in paras. 14 and 15 above). SHIH told Individual A that the shipments were detained because "Customs" thought the shipments were going to an embargoed country. SHIH further stated that the payments for Sunrise shipments are routed through Dubai banks, as opposed to exchange companies, which are generally known to be more heavily scrutinized by the United States Government. Finally, in the context of discussing his efforts to contest the continued detention of the shipments, SHIH stated that he would never admit to agents of the United States Government that he was sending goods to Iran even though Sunrise was supplying computers from the United States to end-users in Iran, saying in sum and substance:

So no matter what, legal procedure, whatever, you have to fight that and say I never do that . . . even if you are doing this, you are not going to admit it, right?

Which I am legally, I'm not doing directly with Iran.

Finally, SHIH told Individual A that he considered the United States Government's detention of the computer shipments to be just another cost of conducting business involving shipments from the United States to Iran, saying in sum and substance:

Ok, so, and, uh, in this kind of situation, we asking for pardon or something like that. Eh, maybe they gonna give you some kind of fine. Let's say your value is uh \$500,000 dollars, you pay like \$50,000 dollar fine.

23. On or around February 3, 2011, Individual A again met and conducted a consensually-monitored meeting with SHIH in Flushing, NY, including at Sunrise's business address of 33-38 Farrington Street, Flushing, NY. During the meeting, SHIH indicated that he was aware of the U.S. embargo against Iran and about U.S. export control laws prohibiting the shipment of U.S.-origin goods to Iran without a license from OFAC. SHIH then identified several products he was selling to and seeking orders from businesspersons operating in Iran. In the context of discussing the market for laptop computers in Iran, SHIH stated that the Iranian currency was high due to the exchange rate with the United States dollar. Individual A and SHIH spent several hours discussing the business of purchasing laptop computers from the United States for sale in Iran. Among other things, aspects of the discussion included the following:

- SHIH listed several computer products that he was selling to individuals in Iran, stating, for example, in sum and substance: There is no, actually, I have a customer in Tehran they want like 3,000 [pieces].
- SHIH told Individual A how to avoid detection by the United States Government of illegal export business and practices, saying in sum and substance: You can, you, what you say, have some like fake invoice right [this shows that] I'm not selling directly to Iran.
- In the context of discussing the shipments detained by CBP, SHIH explained how he treated the detained shipments of goods as a "loss" when reporting business income and losses to the United States Department of the Treasury, Internal Revenue Service, saying in sum and substance:

No I . . . if I'm the mastermind I'm not gonna be caught for that . . . For shipping get the, uh, custody, been taken away Because of customs, you make half million dollars. Just say this half million is loss and report loss. So, yes, customs take away half million dollars, then you can claim for the IRS that you lost half a million dollars.

24. HSI-New York agents have contacted OFAC to ascertain whether SHIH or Sunrise has ever applied for an export license, authorizing SHIH or Sunrise to export goods to Iran.

Neither SHIH nor Sunrise has ever applied for or obtained a license to export any goods to Iran from OFAC, which is located in the District of Columbia.

25. In sum, I submit that there is probable cause to conclude that from at least 2007 to the present **JENG SHIH, also known as JAY SHIH**, has conspired to export computers from the United States to Iran without first having obtained the required export license from OFAC, in violation of the International Emergency Economic Powers Act, 50 U.S.C § 1705, and the Iranian Transaction Regulations, 31 C.F.R. §§ 560.203 and 560.204.

Ashley E. Schrank, Special Agent
Department of Homeland Security
U.S. Immigration & Customs Enforcement
Homeland Security Investigations

Subscribed and sworn before me this _____ day of April, 2011.

United States Magistrate Judge