

FILED by TB D.C.

Apr 3, 2018

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
18-10012-CR-MOORE/SIMONTON
CASE NO. _____

18 U.S.C. § 554
18 U.S.C. § 1001(a)(2)
18 U.S.C. § 981(a)(1)(C)
22 U.S.C. § 401
21 U.S.C. § 853

UNITED STATES OF AMERICA

v.

BRYAN EVAN SINGER,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

1. Under the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. §§ 1701-07, 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. Under IEEPA, the President may declare a national emergency through Executive Orders that have the full force and effect of law.

2. IEEPA also empowers the U.S. Department of Commerce ("DOC") to issue regulations governing exports. Initially, the Export Administration Act ("EAA"), 50 App. U.S.C. §§ 4601-4623, regulated the export of goods, technology, and software from the United States. Pursuant to the provisions of the EAA, the DOC promulgated the Export Administration

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Regulations (“EAR”), 15 C.F.R. §§ 730-774, which contain additional restrictions on the export of goods outside of the United States, consistent with the policies and provisions of the EAA. *See* 15 C.F.R. § 730.02. Although the EAA lapsed on August 17, 2001, pursuant to the authority provided to the President under IEEPA, the President issued Executive Order 13222, which declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the EAA. Accordingly, pursuant to IEEPA, the President ordered that the EAR’s provisions remain in full force and effect despite the expiration of the EAA. Presidents have issued annual Executive Notices extending the national emergency declared in Executive Order 13222 from the time period covered by that Executive Order through the present. *See, e.g.*, 82 Fed. Reg. 39005 (Aug. 16, 2017). Under IEEPA, it is a crime to willfully violate any regulation promulgated thereunder, including the EAR. *See* 50 U.S.C. § 1705.

3. Pursuant to its authority derived from IEEPA, the DOC reviewed and controlled the export of certain items, including goods, software, and technologies, from the United States to foreign countries through the EAR. In particular, the EAR restricted the export of items that could make a significant contribution to the military potential of other nations or that could be detrimental to the foreign policy or national security of the United States. The EAR imposed licensing and other requirements for items subject to the EAR to be lawfully exported from the United States or lawfully re-exported from one foreign destination to another. The most sensitive items subject to EAR controls were identified on the Commerce Control List, or “CCL,” published at 15 C.F.R. Part 774, Supp. No. 1. Items on the CCL were categorized by Export Control Classification Number (“ECCN”), each of which has export controls requirements depending on destination, end use, and end user.

4. Pursuant to IEEPA Section 1705(a), “[i]t 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,” and pursuant to Section 1705(c), “[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” be guilty of a crime.

5. The DOC required the filing of electronic export information (EEI), previously the Shipper’s Export Declaration (SED), through the Automated Export System (AES) pursuant to Title 13, United States Code, Section 305 and Foreign Trade Regulations (FTR), Title 15, Code of Federal Regulations, Part 30. The purpose of these requirements was to strengthen the United States government’s ability to prevent the export of certain items to unauthorized destinations and end users because the AES aids in targeting, identifying, and when necessary confiscating suspicious or illegal shipments prior to exportation. 15 C.F.R. § 30.1(b). The AES was administered by the Department of Homeland Security (DHS), Customs and Border Protection (CBP).

6. With exceptions not relevant to the exports at issue in this Indictment, EEI was required to be filed for, among other things, the export of commodities valued over \$2,500. EEI was required to contain, among other things, the names and addresses of the parties to the transaction; the description, quantity, and value of the items exported; the ultimate consignee (end user); and the ultimate country of destination. 15 C.F.R. § 30.6(a).

7. As discussed above, the CCL listed the most sensitive items subject to EAR controls and categorized them by ECCN. Each ECCN category had export controls requirements depending on destination, end use, and end user.

8. Ubiquiti Nanostation M2 Network Modems are items classified on the CCL under ECCN 5A002.A1.
9. TP Link Modems are items classified on the CCL under ECCN 5A992.C.
10. Cable Box Circuit Boards are items designated as EAR99.
11. The defendant, **BRYAN EVAN SINGER**, never applied for or obtained a DOC or OFAC license to export any of the above-listed items to Cuba.

COUNT 1
Smuggling Goods Outside of the United States
(18 U.S.C. § 554)

1. The allegations set forth in paragraphs 1 through 11 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as if fully set forth herein.

2. On or about May 2, 2017, in Monroe County, in the Southern District of Florida, the defendant,

BRYAN EVAN SINGER,

did knowingly and fraudulently attempt to export and send from the United States to Cuba an article, object, and merchandise, that is, Ubiquiti Nanostation M2 Network Modems, TP Link Modems, and Cable Box Circuit Boards, contrary to law and regulations of the United States, namely, Title 50, United States Code, Section 1705, in violation of Title 18, United States Code, Sections 554(a) and 2.

COUNT 2
False Statements
(18 U.S.C. § 1001(a)(2))

On or about May 2, 2017, in Monroe County, in the Southern District of Florida, in a matter within the jurisdiction of Homeland Security Investigations (HSI), an agency of the executive branch of the Government of the United States, the defendant,

BRYAN EVAN SINGER,

did knowingly and willfully make a false, fictitious, and fraudulent statement and representation as to a material fact during an interview with a Special Agent of HSI, an agency within the United States Department of Homeland Security, in that he represented that he was transporting to Cuba only those items observable in plain view on board the vessel "La Mala," when in truth and in fact, and as the defendant then and there well knew, he was not transporting to Cuba only those items observable in plain view on board the vessel "La Mala," in violation of Title 18, United States Code, Section 1001(a)(2).

FORFEITURE ALLEGATION

1. The allegations of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which the defendant has an interest.


2. Upon conviction of a violation of Title 18, United States Code, Section 554, as alleged in this Indictment, the defendant shall forfeit all of his right, title and interest to the United States in any property, real or personal, which constitutes or is derived from proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and in all arms or munitions of war and other articles seized as a result of such violation, pursuant to Title 22, United States Code, Section 401.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 22, United States Code, Section 401, both of which are made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth at Title 21, United States Code, Section 853.

A TRUE BILL



BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY



BRIAN J. SHACK
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.

CERTIFICATE OF TRIAL ATTORNEY*

BRYAN EVAN SINGER,
_____ / Defendant.

Superseding Case Information:

Court Division: (Select One)

- Miami
- Key West
- FTL
- WPB
- FTP

New Defendant(s) _____
Number of New Defendants _____
Total number of counts _____

Yes No

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) NO
List language and/or dialect _____
4. This case will take 2-3 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)

- I 0 to 5 days
- II 6 to 10 days
- III 11 to 20 days
- IV 21 to 60 days
- V 61 days and over

(Check only one)

- Petty
- Minor
- Misdem.
- Felony

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes: Judge: _____ Case No. _____

(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. _____

Related Miscellaneous numbers: _____

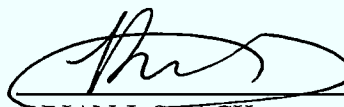
Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes No



BRIAN J. SHACK
ASSISTANT UNITED STATES ATTORNEY
Court I.D. No. A5502166

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: BRYAN EVAN SINGER

Case No: _____

Count #: 1

Smuggling Goods Outside of the United States

Title 18, United States Code, Section 554

*Max. Penalty: 10 Years' Imprisonment

Count #: 2

False Statements to Federal Law Enforcement

Title 18, United States Code, Section 1001(a)(2)

*Max. Penalty: 5 Years' Imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**