

FILED

JUN 09 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES BONINI, Clerk
DAYTON, OHIO

UNITED STATES OF AMERICA,

vs.

HING SHING LAU, a/k/a Victor Lau

Defendant.

CASE NO. **3:09 cr 0074**

Michael R. Barrett

INDICTMENT

18 U.S.C. § 1956(a)(2)(A)

50 U.S.C. § 1705(a) and (c)

15 C.F.R. §§ 736.2, 764.2 and 774

THE GRAND JURY CHARGES THAT:

INTRODUCTORY ALLEGATIONS

At all time relevant to this Indictment:

1. Defendant HING SHING LAU also known as Victor Lau, was a national and citizen of Hong Kong, People's Republic of China.

2. Under the International Emergency Economic Powers Act (IEEPA), Title 50, United States Code §§ 1701-1707, the President of the United States is granted the authority to deal with unusual and extraordinary threats to the national security, foreign policy, or the economy of the United States. The President declares a national emergency through Executive Orders that have the full force and effect of law.

3. On August 17, 2001, under the authority of IEEPA, the President issued Executive Order 13222 which declared a national emergency with respect to the unrestricted access of foreign parties to United States goods and technology and extended the Export Administration Act of 1979, through the promulgation of the Export Administration Regulations (EAR) set forth at Title 15, Code of Federal Regulations, Parts 730-774. On August 15, 2007, the President

I CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN MY OFFICE	
ON	<i>6/9/09</i>
JAMES BONINI, CLERK	
BY:	<i>[Signature]</i> Deputy Clerk
DATE	<i>6/10/09</i>

issued an Executive Notice extending the national emergency declared in Executive Order 13222 from such time through the time of this Indictment.

4. Pursuant to this authority, the Department of Commerce reviews and controls the export of certain goods and technology from the United States to foreign countries. In particular, the Department of Commerce places restrictions on the export of goods and technology that it deems could make a significant contribution to the military or nuclear proliferation of other nations and that could be detrimental to the foreign policy or national security of the United States.

5. The Secretary of Commerce maintains the EAR, which identifies items over which the Bureau of Industry and Security (BIS) exercises regulatory jurisdiction. Through the EAR, the BIS imposes a license or other export authorization requirements before an item subject to the EAR may be lawfully exported from the United States or lawfully re-exported from another country.

6. Supplement Number 1 to Part 774 of the EAR contains the Commerce Control List (CCL). The CCL establishes items subject to BIS export licensing requirements based on various reasons, such as Anti-Terrorism, National Security concerns, and dual-use control. Each commodity, or item, on the CCL corresponds to an Export Commodity Classification Number (ECCN), which is based on the product category, product group, reason for control, and product specifications. An ECCN entry in the EAR will also include all applicable reasons for control and will reference a Country Chart.

7. The EAR establishes the responsibility of BIS to approve or deny export license requests with the input of other federal agencies. Individuals and companies in the United States requesting to export a product with an ECCN that, as indicated by the Country Chart, is restricted for export to the country of destination, must first submit an export license application to BIS in Washington, D.C. and receive approval of the license prior to export.

8. The EAR at 15 C.F.R. § 764.2(a) *Engaging in prohibited conduct* states the following: “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.”

9. The EAR at 15 C.F.R. § 764.2(e) *Acting with knowledge of a violation* states the following: “No person may order, buy, remove, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or part, any item exported or to be exported from the United States, or that is otherwise subject to the EAR, with knowledge that a violation of the EAA, the EAR, or any order, license or authorization issued thereunder, has occurred, is about to occur, or is intended to occur in connection with the item.”

10. The EAR at 15 C.F.R. § 764.2(f) *Possession with intent to export illegally* states the following: “No person may possess any item controlled for national security or foreign policy reasons under sections 5 or 6 of the EAA: (1) With intent to export or reexport such item in violation of the EAA, the EAR, or any order, license or authorization issued thereunder.”

11. The items described herein as “thermal imaging cameras” refer to the Model 4500AS infrared thermal imaging camera with a 320 x 240 pixel array, 30 hertz, and Model 3500AS Model 3500AS infrared thermal imaging cameras with a 160 x 120 pixel array, 30

hertz, both of which were manufactured by a United States based company, L-3 Communications headquartered in Dallas, Texas. Both of these cameras were designated by the Department of Commerce as export-controlled items and could not be exported to either Hong Kong, or the People's Republic of China without express authorization in the form of an export license issued by the Department of Commerce. These thermal imaging cameras were controlled by the Department of Commerce for export to Hong Kong and the People's Republic of China for national security and regional stability reasons because of their use in a wide variety of civilian and military applications, including: unmanned vehicle payloads, weapon sights, security and surveillance products, and others.

12. At no time did defendant HING SHING LAU ever have authorization in the form of a license from the Department of Commerce to export thermal imaging cameras from the United States to Hong Kong or the People's Republic of China.

13. Beginning in or about September 2008 and continuing through June 3, 2009, in the Southern District of Ohio and elsewhere, defendant HING SHING LAU together with others both known and unknown to the Grand Jury engaged in a scheme to obtain money and property by means of false and fraudulent pretenses, representations and promises to sell, dispose of, distribute, supply, furnish and procure for unlawful use, and cause to commit certain offenses against the United States by knowingly devising and participating in a scheme to illegally export certain export controlled items from the United States without first obtaining a required export license and authorization from the United States Department of Commerce.

14. It was part of this scheme that defendant HING SHING LAU approached "W-1", a person known to the Grand Jury, for the purpose of acquiring thermal imaging cameras for export to Hong Kong, People's Republic of China, knowing that said cameras were export controlled items without first obtaining required export licenses and authorizations from the United States Department of Commerce.

15. It was further part of this scheme that defendant HING SHING LAU instituted various money wire transfers from a banking institution located in Hong Kong into a National City Bank account controlled by W-1 which was located within the Southern District of Ohio.

16. It was further part of this scheme that defendant HING SHING LAU repeatedly communicated with W-1 via telephone and electronic mail concerning certain plans and details to illegally acquire, purchase, sell and deliver export controlled thermal imaging cameras to Hong Kong, People's Republic of China without first obtaining a required export license from the United States Department of Commerce.

17. It was further part of this scheme that defendant HING SHING LAU recruited "W-2", a person known to the Grand Jury, who resides in Germantown, Maryland, to serve as an intermediary in the illegal shipment of said export controlled thermal imaging cameras from the Southern District of Ohio to Hong Kong, People's Republic of China without first obtaining required export licenses and authorizations from the United States Department of Commerce.

18. It was further part of this scheme that defendant HING SHING LAU entered into three (3) separate written purchase contracts with W-1 to acquire a total of twelve (12) export controlled thermal imaging cameras for shipment from the Southern District of Ohio to Hong Kong, People's Republic of China without first obtaining required export licenses and authorizations from the United States Department of Commerce.

19. It was further part of this scheme that defendant HING SHING LAU arranged to personally meet W-1 at a location inside Canada for the purpose of physically transferring possession of aforesaid twelve (12) export controlled cameras and discussing future strategies and tactics to circumvent United States export-control laws.

COUNT 1
(Violation of Export-Control Laws)

20. Between on or about August 31, 2008 and June 3, 2009, while in the Southern District of Ohio and elsewhere, the defendant HING SHING LAU, did knowingly and willfully attempt to export from the United States to Hong Kong, People's Republic of China, a certain export controlled item, to wit: an L-3 Communications, Model 4500AS infrared thermal imaging camera with a 320 x 240 pixel array, 30 hertz, without first obtaining a required export license from the United States Department of Commerce.

In violation of 50 U.S.C. §§ 1705(a), (c); 15 C.F.R. §§ 736.2, 764.2, 774.

COUNT 2
(Violation of Export-Control Laws)

21. Between on or about March 4, 2009 and June 3, 2009, while in the Southern District of Ohio and elsewhere, the defendant HING SHING LAU, did knowingly and willfully attempt to export from the United States to Hong Kong, People's Republic of China, certain export controlled items, to wit: eleven (11), L-3 Communications, Model 3500AS infrared thermal imaging cameras with a 160 x 120 pixel array, 30 hertz, without first obtaining required export licenses from the United States Department of Commerce.

In violation of 50 U.S.C. §§ 1705(a), (c); 15 C.F.R. §§ 736.2, 764.2, 774.

COUNTS 3 - 6
(Money Laundering)

22. The United States Attorney realleges all of the allegations contained in paragraphs 1-19 of this Indictment as if they were fully reproduced herein.

23. On or about the following dates, in the Southern District of Ohio and elsewhere, the defendant HING SHING LAU, in an offense involving and affecting interstate and foreign commerce, did transport, transmit, and transfer, attempt to transport, transmit, and transfer and cause to be transported, transmitted, and transferred, 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 a specified unlawful activity, to wit: (1) smuggling goods from the United States, in violation of 18 U.S.C. § 554 and (2) the illegal export of controlled items in violation of the EAA, the EAR, or any order, license or authorization issued thereunder In violation of 50 U.S.C. §§ 1705(a), (c); 15 C.F.R. §§ 736.2, 764.2, 774:

<u>Count</u>	<u>Approximate Date of Transfer of Monetary Instruments or Funds</u>	<u>Approximate Amount of Transfer of Monetary Instruments or Funds</u>
3.	September 18, 2008	\$7,632.00
4.	May 4, 2009	\$25,000.00
5.	May 26, 2009	\$6,882.00
6.	June 3, 2009	\$30,000.00

In violation of 18 U.S.C. § 1956(a)(2)(A).

FORFEITURE ALLEGATION

Upon conviction of Counts One through Six of this Indictment, the defendant, HING SHING LAU, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(c) and 28 U.S.C. § 2461(c) all property, real or personal, which constitutes or is derived from proceeds traceable to such violation(s), including but not limited to monetary instruments or currency.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendant:

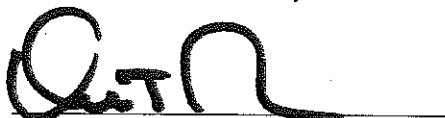
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said Defendant up to the value of the forfeitable property described above.

A T R U E B I L L

 /s/
F O R E P E R S O N

GREGORY G. LOCKHART
United States Attorney



VIPAL PATEL
Deputy Chief, Criminal Division