

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**UNITED STATES OF AMERICA,**

**v.**

**RI JONG CHOL,**

**RI YU GYONG,**

**and**

**GAN CHEE LIM**

**Defendants.**

**Magistrate No.:**

**AFFIDAVIT IN SUPPORT OF A  
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Cindy Burnham, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND SUMMARY OF PROBABLE CAUSE**

1. I make this affidavit in support of a criminal complaint charging Ri Jong Chol (“CHOL”), Ri Yu Gyong (“GYONG”), and Gan Chee Lim (“GAN”) pursuant to 18 U.S.C. § 371, with knowingly and willfully defrauding the United States by interfering with and obstructing lawful government functions, that is, the enforcement of the North Korea Sanctions Regulations by the Treasury Department, which is located in Washington, D.C., and supervision by the Federal Reserve Board and the Office of Comptroller of Currency, which are located in Washington, D.C., of banks’ implementation of required anti-money laundering and sanctions programs, by deceit, craft, trickery, and dishonest means, and conspiring with others known and unknown to commit offenses against the United States, that is: to cause persons in the United States to export financial services to North Korea without having first obtained the required license, in violation of 50 U.S.C. § 1702 and 1705, and the North Korea Sanctions Regulations, 31, C.F.R. Parts 510.201, 510.205,

and 510.212, and commit bank fraud, in violation of 18 U.S.C § 1344; and conspiring with others to launder funds in violation of 18 U.S.C § 1956(h). As set forth in greater detail below, there is probable cause to believe that the illegal activity in support of these offenses occurred from in or about August 2015 through at least on or about August 2016.

2. The facts set forth in this affidavit are based on information that I have obtained from my personal involvement in the investigation and from other law enforcement officers who have been involved in this investigation, on documents that I have reviewed, and on my training and experience. Where I have reported statements made by others or from documents that I have reviewed, those statements are reported in substance and in part, unless otherwise indicated.

3. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. Because this affidavit is being submitted for a limited purpose, I have not set forth all of the information known to me concerning this investigation.

#### **AFFIANT'S BACKGROUND**

4. I am a Special Agent of the United States Federal Bureau of Investigation ("FBI"). I have served in the FBI since 2006. Since becoming a Special Agent with the FBI, I have participated in investigations of counter proliferation and other national security matters on a counterintelligence squad at the FBI's Minneapolis Field Office. Among other things, I have conducted and participated in physical surveillance, the execution of search warrants, and debriefings of informants.

5. While working for the FBI, I have been involved in investigating violations of federal law including the illegal export of arms, strategic technology and commodities from the United States, among other violations. I have also been involved in investigations of alleged

criminal violations of the Bank Secrecy Act and the Money Laundering Control Act, involving multiple jurisdictions in addition to the United States. Moreover, I have participated in gathering evidence to obtain search and seizure warrants relating to financial crimes. I am empowered by law to investigate and make arrests for offenses involving the unlawful export of arms, strategic technology and commodities to destinations outside the United States, as specified in the Arms Export Control Act (“AECA”), 22 U.S.C. § 2778; the International Traffic in Arms Regulations (“ITAR”), 22 C.F.R. Part 120 et seq.; and the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. § 1705. I am similarly empowered by law to investigate and make arrests for offenses involving the laundering of monetary instruments and conspiracies to launder monetary instruments, as specified in 18 U.S.C. §§ 1956(a), (h).

6. As a Special Agent with FBI, I am familiar with the federal laws relating to the unlawful export of arms, strategic technology and commodities from the United States as specified and regulated by the Department of State (“DOS”), Directorate of Defense Trade Controls (“DDTC”); Department of Commerce (“DOC”), Bureau of Industry and Security (“BIS”); and the Department of the Treasury, Office of Foreign Assets Controls (“OFAC”), all of which are located in Washington, D.C. I am also familiar with related laws, the interpretation and application of federal laws and federal court procedures, and have previously assisted in the execution of numerous federal search and arrest warrants. I have participated in numerous investigations of violations of United States laws relating to the unlawful export of arms, strategic technology and commodities restricted for export for reasons of national security, foreign policy, anti-terrorism and embargoed destinations.

7. As a Special Agent with FBI, I have received considerable training related to identifying the techniques, methods, and procedures employed by groups, organizations,

companies, corporations, and individuals to export goods and commodities in violation of United States export laws, as well as laundering into and out of the United States funds related to such transactions. In addition, I have received specific instruction and training on conducting criminal investigations associated with export law violations, which included investigations associated with violations of IEEPA.

## **STATUTORY PROVISIONS**

### **IEEPA**

8. IEEPA, enacted in 1977, authorizes the President to impose economic sanctions in response to an unusual or extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States when the President declares a national emergency with respect to that threat.

9. The Department of the Treasury enforces and administers economic sanctions to accomplish U.S. foreign policy and national security goals. In particular, the Department of the Treasury publishes a publicly available list of individuals and entities (“Specially Designated Nationals and Blocked Persons” or “SDNs”) targeted by U.S. economic sanctions. SDNs’ property and interests in property, subject to U.S. jurisdiction or in the possession and control of U.S. persons, are blocked when they are placed on the SDN list. U.S. persons, including U.S. financial institutions, are generally prohibited from dealing with SDNs and their property and interests in property.

10. Using the powers conferred by IEEPA, the President and the Executive Branch have issued orders and regulations governing and prohibiting certain transactions with countries, individuals, and entities suspected of proliferating Weapons of Mass Destruction (“WMD”). On November 14, 1994, the President issued Executive Order 12,938, 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, and [declaring] a national emergency to deal with that threat.”

11. On June 27, 2008, the President declared in Executive Order 13,466 (“Continuing Certain Restrictions With Respect to North Korea and North Korean Nationals”) that “the existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula constituted an unusual and extraordinary threat to the national security and foreign policy of the United States,” and thereby declared a “national emergency.” The Executive Order further authorized the United States Secretary of the Treasury, in consultation with the Secretary of State, “to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order.”

12. On March 15, 2016, the President, to take additional steps with respect to the previously described national emergency, issued Executive Order 13,722 to address the Government of North Korea’s continuing pursuit of its nuclear and missile programs. Pursuant to that authority, on March 16, 2016, the Secretary of the Treasury promulgated the “North Korea Sanctions Regulations.” See 31 C.F.R. § 510.101 *et seq.* Executive Order 13,722 and the North Korea Sanctions Regulations prohibit the export of financial services from the United States or by any U.S. person to North Korea, unless exempt or authorized by OFAC.

13. Foreign financial institutions maintain U.S. dollar bank accounts at banks in the United States (“Correspondent Banks”). Correspondent Banks 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, such as currency conversions, related to such foreign financial institution. See 31 C.F.R. § 1010.605. Correspondent Banks serve to support international wire transfers for foreign customers in a currency that the foreign customer's overseas financial institution normally does not hold on reserve, such as U.S. dollars and to conduct currency conversions to/from U.S. dollars. It is through these accounts that the funds used in U.S. dollar transactions clear and/or are converted into other currencies.

14. SDNs are, among other things, prohibited from accessing Correspondent Banks in the United States through foreign financial institutions, either directly or indirectly.

15. The North Korea Sanctions Regulations further prohibited the export of financial services, to include Correspondent Banking activities, by any U.S. person.

16. The North Korea Sanctions Regulations define "U.S. person" as any:

- a. United States citizen or permanent resident alien;
- b. entity organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; or
- c. any person in the United States.

17. The North Korea Sanctions Regulations also prohibited activities that evaded or avoided, or had the purpose of evading or avoiding, any prohibition set forth in these regulations.

### **Bank Secrecy Act**

18. 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 and countering the financing of terrorism requirements set forth in the Bank Secrecy Act ("BSA"), as

well as sanctions programs administered by OFAC. The Treasury Department's Financial Crimes Enforcement Network ("FinCEN") is responsible for administering the BSA in furtherance of its mission to safeguard the U.S. financial system.

19. Nearly all U.S. dollar transactions conducted by foreign financial institutions are processed via correspondent 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, a foreign financial institution, or to handle other financial transactions related to such foreign financial institution. The BSA requires U.S. financial institutions to take anti-money laundering measures for foreign financial institutions engaged in correspondent banking of U.S. dollar transactions.

20. The BSA broadly defines foreign financial institutions to include dealers of foreign exchange and money transmitters in a manner not merely incidental to their business.

21. 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. A Section 311 finding and the related special measures are implemented through various orders and regulations. In order to protect the integrity of the U.S. financial system, a special measure imposed under Section 311 prevents financial institutions from causing 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.

22. In June 2016, FinCEN made a Section 311 finding against North Korea. Specifically, FinCEN's finding deemed the entire North Korean financial sector as a jurisdiction of primary money laundering concern.

23. In November 2016, FinCEN implemented the most severe special measure against

the entire North Korean financial sector. Federal Register, Vol. 81, No. 217 (Nov. 9, 2016); 31 C.F.R. § 1010.659. The special measure bars U.S. financial institutions from maintaining a correspondent account for any North Korean financial institution or any party acting on its behalf.

24. The special measure also requires U.S. financial institutions to exercise enhanced due diligence and 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. 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.

25. A violation of the Section 311 finding, codified at 31 U.S.C. § 5318A, or of the regulations published at 31 C.F.R. § 1010.659, is punishable criminally pursuant to 31 U.S.C. § 5322.

### **Bank Fraud**

26. The bank fraud statute, 18 U.S.C. § 1344, criminalizes a person knowingly executing, or attempting to execute, a scheme or artifice “(1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.”

### **Money Laundering**

27. 18 U.S.C. § 1956(a)(2)(A) (the international promotional money laundering statute) criminalizes transporting, transmitting, and transferring, and attempting 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.

28. Pursuant to 18 U.S.C. § 1956(c)(7)(A), the term “specified unlawful activity”



includes violations of section 206 (relating to penalties) of the IEEPA and 18 U.S.C. § 1344 (relating to bank fraud).

29. 18 U.S.C. § 1956(h) criminalizes a conspiracy to violate § 1956.

## **FACTS SUPPORTING PROBABLE CAUSE**

### **Introduction and Background**

30. This complaint arises from a scheme to unlawfully access the U.S. financial system to support illicit shipments to North Korea. The parties involved, based in North Korea and Malaysia, established and utilized front companies that transmitted U.S. dollar wires through the United States to purchase commodities beginning in or about September 2015.

31. CHOL is a North Korean national who previously lived and worked in Malaysia. A Malaysian company sponsored the employment and residency of CHOL in Malaysia beginning in or around June 2015. According to an open source news article, CHOL spent little time at the business. The owner of the company told a newspaper that CHOL never worked there or drew a salary, describing CHOL's employment as "just a formality, just documents" and that CHOL was "never paid."

32. GYONG is the daughter of CHOL. She was a student at a university in Malaysia and worked with her father to procure products on behalf of customers in North Korea.

33. GAN represented a Malaysia-based company ("Company 1") that sold household products. Company 1 worked for several years with CHOL and GYONG to facilitate trade with companies located in North Korea.

### **United Nations Panel of Experts Investigation**

34. The United Nations ("U.N.") is an international organization with the central mission of supporting global peace and security. The U.N. Security Council Committee

Established Pursuant to Resolution 1978 (“the Committee”) was created in 2006 to oversee the relevant sanctions measures relating to North Korea. The Committee is mandated to oversee the implementation and examine the effectiveness of measures adopted by the Security Council in relation to North Korea. As part of its work, the Committee, which is supported by a panel of experts, prepares annual reports of its activities.

35. The Committee’s March 5, 2019 report (“the report”) detailed its investigation into the activities of CHOL and GYONG.<sup>1</sup> The report referred to CHOL as a North Korean diplomat who operated on behalf of the Korea PongHwa General Trading Corporation (“PongHwa”), which is described as falling under the authority of the External Economic Committee of the Cabinet of North Korea. The report further stated that CHOL’s daughter, GYONG, often served as CHOL’s translator. The panel of experts obtained documentation showing that financial assets associated with PongHwa’s purchases were transferred to an account at Korea Kumgang Bank in the name of the Korea General Insurance Company, an alias for the U.N. and U.S.-designated Korea National Insurance Company.

36. As detailed by the panel of experts, “Korea Kumgang Bank was established as a specialized bank to settle accounts for export-import transactions of various trading corporations of the Democratic People’s Republic of Korea,” including PongHwa.

37. The panel of experts obtained information showing that CHOL was also the Deputy Director of another North Korean company, Sinkwang Economic and Trading Group (“Sinkwang”). The U.S. Department of the Treasury sanctioned Sinkwang on March 16, 2016,

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<sup>1</sup> In part, the panel of experts investigated CHOL for his alleged role in facilitating the February 2017 assassination of Kim Jong Nam, the half-brother of North Korean Leader Kim Jong Un. CHOL was initially detained by Malaysian authorities, but was subsequently expelled from Malaysia on March 3, 2017. CHOL’s alleged role in that activity does not bear on his role in the scheme alleged herein.

characterizing it as a subordinate of North Korea's Ministry of People's Armed Forces.

38. The panel of experts noted that documents from PongHwa in 2016 and 2017 indicated both PongHwa and Sinkwang used a shipping company called Complant International Transport (Dalian) Co., Ltd. ("Complant"), a company mentioned in previous panel of expert reports as the transhipper for attempted sales of luxury goods to North Korea.

### **Korea KyongUn Trading Corporation and SinKwang**

39. Since at least August 2015, CHOL and GYONG worked in Malaysia, sourcing and facilitating the purchase of commodities sent to customers in North Korea. Search warrant returns revealed numerous communications about this scheme, and their involvement therein.

40. In an email dated October 23, 2015, GYONG described Korea KyongUn Trading Corporation as being part of SinKwang, located in Pyongyang, North Korea. In this email, GYONG admitted to her role in working at Korea KyongUn Trading Corporation and directed a customer to contact her "boss" with any questions. GYONG provided CHOL's email address as the contact information for her boss.

41. On or about January 22, 2016, CHOL sent an invoice from a company located in Vietnam ("Company 2") to CHOL's co-conspirator in North Korea. The invoice listed the buyer as Korea Kyongun Trading Company, located in Pyongyang, North Korea. The invoice documented Korea Kyongun Trading Company's purchases of goods, listing a total cost of \$199,765.44.

42. Subpoena returns from U.S. Bank 1 show that a known North Korean front company ("Front Company A") made the following related payments to Company 2:

January 27, 2016: \$79,711

December 28, 2015: \$29,895

December 22, 2015: \$59,995

September 16, 2015: \$30,123

43. These transactions, which total \$199,724.00, were made at the direction of CHOL on behalf of Korea KyongUn Trading Company.

44. A confidential reliable source (“CS-1”) revealed that Front Company A acted on behalf of North Korea customers. CS-1 provided that between March and June 2016, Front Company A paid a Malaysian company (“Company 3”) over \$175,000 to facilitate trade with North Korea.

### **Korea Ponghwa General Trading**

45. On or about June 14, 2016, GAN sent GYONG shipping documents, which included an invoice for contract OP/E/0013. The related bill of lading listed the shipper as Company 1, the consignee as Korea Ponghwa General Trading, located in Pyongyang, North Korea, and the Notify Party as Complant.

46. On or about June 14, 2016, GYONG forwarded these documents to CHOL.

47. On or about August 2, 2016, CHOL wrote GAN, “Yesterday, we transferred USD 25000 to your account...It will be arriving by today or tmr.”

48. On or about August 18, 2016, GAN wrote GYONG confirming that he received GYONG’s payment of \$25,000 on August 3, 2016, from Front Company B, as partial payment for Invoice OP/E/0013.

49. Subpoena returns from banks that process international U.S. dollar wires confirmed that Front Company B paid Company 1 \$24,975.00, which payment transited through the United States, on August 3, 2016.

50. On or about August 18, 2016, GAN further confirmed to GYONG that GAN would

make a payment on GYONG's behalf to Complant.

### **Knowledge of U.S. Sanctions**

51. On or about October 22, 2015, CHOL communicated with a representative of Company 3. When asked for the price to ship to Nampo port in North Korea, Company 3 warned CHOL that "Due to sanction concern [sic], we are not able to quote you price CNF to Nampo." Based on my training and experience, CNF is an acronym for cost net fright—the charge of shipping, including the cost, no insurance, and freight.

52. On or about March 4, 2016, GAN and GYONG exchanged emails discussing a shipment for Korean Kangsong General Trading Corporation, located in North Korea. GAN stated, "As you probably know, there is a new sanction on North Korea which was passed few days ago. You can refer below news for more information." GAN provided links to three news articles, published by *Yahoo News*, *The Guardian*, and the *Washington Post*, all of which referenced new sanctions on North Korea.

53. The co-conspirators failed to seek or obtain OFAC licenses for the transactions described above, in violation of U.S. sanctions.

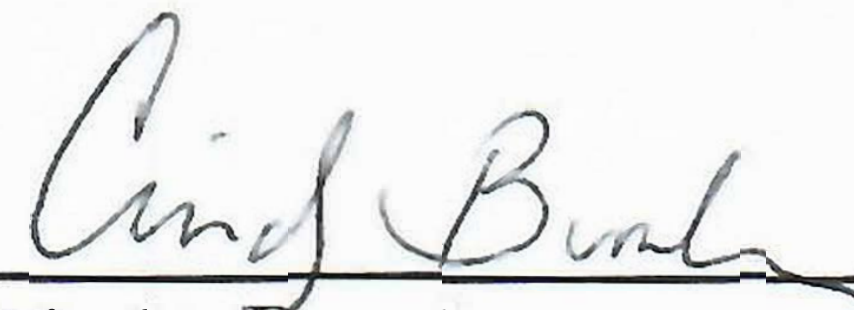
### **CONCLUSION**

54. CHOL, GYONG, GAN, and others known and unknown, unlawfully accessed the U.S. financial system to support illicit shipments to North Korea. Based on the facts set forth herein, and on my training and experience in investigating cases involving violations of federal law, I submit that there is probable cause to believe that CHOL, GYONG, and GAN have violated the following statutes: (1) 18 U.S.C. § 371, defrauding the United States and conspiring to commit offenses against the United States (50 U.S.C. § 1705, 31, C.F.R. Parts 510.201, 510.205, and

510.212, and 18 U.S.C. § 1344); and (2) 18 U.S.C § 1956(h), conspiring with others to launder funds.

55. I respectfully request, pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, permission to communicate information to the Court by telephone in connection with this application for a complaint and arrest warrants. In support of this request, I inform the Court that I am currently in Minnesota where I am working on the investigation of this and other matters. If I were required to appear before the Court in person, it would be a cost to the United States both in travel costs and time diverted from the substantive investigation. I submit that staff from the U.S. Attorney's Office for the District of Columbia are capable of identifying my voice and telephone number for the Court.

Respectfully submitted,



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Cindy Burnham  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn pursuant to Fed. R. Crim. P. 4.1 and 41( d)(3) on September 10, 2020.

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HONORABLE ROBIN M. MERIWEATHER  
MAGISTRATE JUDGE  
U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA