

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 17-
 :
 v. : 18 U.S.C. § 1014
 :
 JOHN CHENG :

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the Acting United States Attorney for the District of New Jersey charges:

1. At all times relevant to this Information:

a. The Small Business Administration ("SBA") was an agency of the United States established by Congress, through the Small Business Act of 1953 (15 U.S.C. § 631, et seq.), to provide financial, technical and management assistance to qualified small businesses.

b. The SBA "7(a) Loan Guaranty Program" as set forth in 15 U.S.C. § 635(a), authorized the SBA to provide financial assistance to eligible, credit-worthy start-up and existing small businesses through loan guarantees to participating lenders.

c. The SBA did not loan money to small business under the 7(a) loan program. Rather, when an independent lender applied for a loan guarantee, that lender had to certify that it would not have made the loan without SBA participation.

d. When the SBA approved a loan under the 7(a) program, it provided a guaranty to that independent lender that the SBA would repay a percentage of a qualified loan in the event that a borrower defaulted. An SBA loan guaranty transferred the risk of borrower non-payment from the independent lender to the SBA, up to the amount of the guaranty.

e. Before a borrower could obtain an SBA guaranteed loan, the borrower was required to truthfully complete certain forms, including an "Application for Business Loan" (SBA Form 4). The Form 4 required the borrower to disclose the purpose for which the loan money is being sought. The intended use of the loan money was deemed a material factor by both SBA and its participating lenders in determining a loan applicant's credit worthiness.

2. On or about December 7, 2007, defendant JOHN CHENG caused to be submitted an SBA loan application for \$1,750,000, as well as a commercial loan application for \$2,000,000, both purportedly relating to a restaurant in Skillman, New Jersey. The SBA loan application falsely stated that the monies from the

loan would be used for the purposes of construction, acquisition of machinery and equipment, and working capital.

3. Based upon the receipt of aforesaid documents from defendant JOHN CHENG, the SBA loan and the commercial loan closed on or about March 21, 2008, and approximately \$2,082,229 was deposited into a bank account under defendant JOHN CHENG's control.

4. Thereafter, rather than use the money for the purposes of construction, acquisition of machinery and equipment, and working capital, defendant JOHN CHENG used the proceeds for his own benefit, including to pay off gambling debts, send money to family members, and send money to pay a federal tax bill.

5. On or about December 7, 2007, in the District of New Jersey and elsewhere, defendant

JOHN CHENG

knowingly made false statements for the purpose of influencing the actions of BNB Hana Bank (a financial institution as defined by 18 U.S.C. § 20 in that it was an insured depository institution as defined in section 3(c)(2) of the Financial Deposit Insurance Act) in connection with an application for an SBA 7(a) loan.

In violation of Title 18, United States Code, Section 1014.

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Section 982(a)(2).

2. Upon conviction of the offense in violation of Title 18, United States Code, Section 1014, the defendant, JOHN CHENG, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2), all right, title, and interest in the sum of \$1,696,506, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to the offense of conviction.

3. If any of the property described above, 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, the United States shall be entitled, pursuant to Title 21, United States Code, Section

853(p), as incorporated by Title 18, United States Code, Section 982(a)(2), to forfeiture of any other property of the defendant, JOHN CHENG, up to the value of the property described in the preceding paragraph.

William E. Fitzpatrick

WILLIAM E. FITZPATRICK
ACTING UNITED STATES ATTORNEY

CASE NUMBER: _____

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v.

JOHN CHENG

INFORMATION

18 U.S.C. § 1014

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