

**A F F I D A V I T**

**INTRODUCTION**

I, Randall Thomas, being duly sworn, hereby depose and say:

1. I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI) and have been so employed for five years. I am presently assigned to the FBI's Los Angeles Division. I am currently assigned to a foreign counterintelligence investigation, in the course of which I have received training and briefings on foreign counterintelligence matters. While attending the FBI Academy in Quantico, Virginia, I received a block of instruction in conducting foreign counterintelligence investigations and the special legal provisions, policies, and techniques pertinent thereto.

2. This affidavit is made in support of a complaint and arrest warrant for **KATRINA LEUNG** (a.k.a. CHAN Man Ying, CHEN Wen Ying, LUO Zhongshan, Parlour Maid) for a violation of Title 18, United States Code, Section 793(b) (Unauthorized Copying of National Defense Information with Intent to Injure the United States or Benefit a Foreign Nation).

3. Because this affidavit is being filed for the limited purpose of supporting a warrant to arrest **LEUNG**, I have not related herein all of the facts known to me as part of this investigation.

## PROBABLE CAUSE

### **Overview**

4. In the course of conducting an FBI counterintelligence investigation over the last year, and as further detailed below, I have learned that **LEUNG** was operated from the early 1980's until 2002 as an FBI "asset" providing information about the People's Republic of China (PRC) to the FBI. James J. Smith was the FBI Agent who recruited her and was her primary "handler" until he retired from the FBI in November 2000. Smith routinely debriefed **LEUNG** at her residence and on occasion took classified documents there and left them unattended. **LEUNG** surreptitiously photocopied some of them, and documents she obtained in this manner have been recovered from her residence. Investigation has revealed that from the early 1980's until December 2002, Smith and **LEUNG** had a sexual relationship. Investigation has also revealed that in 1991, Smith learned **LEUNG** was providing classified information to PRC intelligence services without authorization by Smith or the FBI, after which Smith continued to allow **LEUNG** access to classified information.

### **Background Re: Counterintelligence Investigations**

5. Beginning in early April 2002 and continuing through the present, I have been assigned to a counterintelligence investigation regarding Smith and **LEUNG**. In the course of this investigation, I have conferred with FBI agents experienced in

foreign counterintelligence matters, received training, and reviewed training materials prepared by FBI personnel with expertise in the area of foreign counterintelligence, and learned the following:

a. The Ministry of State Security (MSS) is an intelligence service of the PRC. Among other functions, MSS conducts intelligence operations for the PRC focusing on the United States intelligence community, including the FBI, the Central Intelligence Agency (CIA), the National Security Agency (NSA), the Defense Intelligence Agency, the military, the National Reconnaissance Office, and the National Imaging and Mapping Agency.

b. Persons operating to obtain intelligence for foreign intelligence officers (IOs) are called "agents" or "assets." The IO who operates the agent is called the agent's "handler." To preserve an agent's ability to covertly obtain intelligence, IOs go to great lengths to maintain the secrecy of the agent's identity, even within the IO's own intelligence organization. To this end, agents are commonly assigned code names, and those code names, not the agent's true name, are used in the intelligence organization's communications regarding the agent. These and other measures are designed to protect the identity of the agent from compromise. A "Double Agent" is an agent who is cooperating with an intelligence service of one

government on behalf of and under the control of an intelligence or security service of another government, and is manipulated by one to the detriment of another.

c. Agents also travel domestically to thwart detection or to foreign countries beyond the reach of U.S. law enforcement in order to meet with intelligence officers for the purposes of conducting debriefings, receiving tasking and payment, and passing classified and national defense information.

d. The information sought by PRC intelligence services includes the identities of FBI employees and the nature of FBI investigations.

i. The identity of FBI employees and information regarding those employees' personal, familial, and professional relationships are of use to hostile intelligence services (including those of the PRC) in their attempts to identify individuals who may have access to classified information and national defense information desired by the PRC, and to identify such individuals' potential vulnerabilities to approach or recruitment by the hostile intelligence service. Because success at such efforts would compromise the United States' counterintelligence capability, intelligence regarding FBI personnel involved in counterintelligence investigations concerns the national defense.

ii. The nature of FBI investigations are of value to hostile intelligence services both because the subject matter of the investigations may reveal foreign intelligence of value to the hostile intelligence service, and because details regarding sensitive or classified methodologies, techniques, and technology employed in FBI investigations enable foreign governments to adopt and/or develop countermeasures to defeat them.

e. Classified information is defined by Executive Order 12958 and its predecessor orders (including E.O. 12356) as follows: information in any form that (1) is owned by, produced by or for, or under the control of the United States Government; (2) falls within one or more of the categories set forth in Section 1.5 of the Order (including intelligence sources or methods, cryptology, military plans, and vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security), and (3) is classified by an original classification authority who determines that its unauthorized disclosure reasonably could be expected to result in damage to the national security. Where such unauthorized release could reasonably result in "serious" damage, the information may be classified as SECRET. Where such damage is "exceptionally grave," the information may be classified TOP SECRET. Access to classified information at any level may be further restricted

through compartmentation in SENSITIVE COMPARTMENTED INFORMATION (SCI) categories. Dissemination of classified information at any level may also be restricted through caveats such as: NOFORN (Not Releasable to Foreign Nationals), NOCONTRACT (Not Releasable to Contractors or Contractor/Consultants), WNINTEL (Warning Notice: Intelligence Sources and Methods Involved), and ORCON (Dissemination and Extraction of Information Controlled by Originator).

### **Smith's Position And Access To National Defense Information**

6. On March 7, 2003, I reviewed portions of Smith's FBI personnel file and security file. I have also spoken with other FBI Special Agents who knew and worked with Smith, including SAs Thomas E. Powers and Edgar Del Rosario. From my review of his personnel files and those conversations I have learned the following:

a. Smith was an FBI Agent in the FBI's Los Angeles office. Smith began his career with the FBI in October 1970 and retired in November 2000. Smith transferred from his first FBI office in Salt Lake City, Utah, to the Los Angeles Office in 1971. In approximately July 1978, Smith was assigned to work on a Foreign Counterintelligence (FCI) squad focusing the PRC. From that time until his retirement Smith worked on FCI PRC matters.

b. Smith was the Acting Supervisor of the Los Angeles FCI China squad from March 1983 through October 1983, and was the

Relief Supervisor for the squad in the 1990's. During 1991, Smith was the squad's Acting Supervisor, and became the Supervisory Special Agent (SSA) of the squad in 1996. Smith remained the Los Angeles FBI FCI China squad SSA until his retirement.

7. As an FBI Agent, I know that squad supervisors have an obligation to review the cases being investigated by agents whom they supervise on a regular basis, and that such review entails personal meetings with each agent on the supervisor's squad regarding that agent's cases, as well as review of the FBI file regarding each case. I therefore know that Smith would have had access to and a duty to review cases being worked by the FCI PRC squad, both while he was Acting SSA and SSA, and, in the absence of the squad SSA, while he was the Relief Supervisor. This access and review would have included any SECRET, TOP SECRET, or COMPARTMENTED investigations being worked by the squad.

#### **Smith's Relationship With Katrina LEUNG**

8. In early April 2002, Special Agent Steve Conley (now a Supervisory Special Agent at FBI Headquarters) told me that Katrina **LEUNG** (a.k.a. CHAN Man Ying, CHEN Wen Ying, LUO Zhongshan, Parlor Maid) was a long-time FBI asset providing information regarding the PRC. SA Conley told me that he was **LEUNG's** current FBI handler, but that retired SSA James Smith had recruited **LEUNG** as an asset for the FBI in the early 1980's and

had been her handler until his retirement in November 2000. My review of portions of **LEUNG's** FBI file in the ensuing months confirmed this.

9. Since approximately December 2001, **LEUNG** has been the subject of surveillance under the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. Section 1801, et seq. This surveillance, authorized by the Foreign Intelligence Surveillance Court ("FISC") in Washington, D.C. (established under the authority of Title 50 U.S.C. Section 1803), included covert physical searches, interception of telephone and fax communications, and interception of e-mails. The investigation also included physical surveillance, which did not require a FISC authorization. To the extent this affidavit contains any information which may have at one time been classified, such information has been declassified.

10. On December 20, 2002, I swore out an affidavit before United States Magistrate Judge Jeffrey W. Johnson in support of an application for warrants to search **LEUNG's** residence and business for evidence of violations of: (a) Title 18, United States Code, Section 152 (concealment of assets from bankruptcy trustee; making false oaths and claims in bankruptcy); (b) Title 18, United States Code, Section 157 (bankruptcy fraud); (c) Title 18, United States Code, Section 371 (conspiracy to violate Title 18, United States Code, Sections 152 and 157, and to defraud the



United States for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service in the ascertainment, computation, assessment and collection of revenue, to wit, income taxes); and (d) Title 18, United States Code, Section 794(a) (Unlawfully Delivering National Defense Information to Aid a Foreign Government). Thereafter, Judge Johnson issued warrants to search both locations in Magis. Case Nos. 02-2680M and 02-2679M, respectively. Judge Johnson also granted my request that the affidavit be sealed.

11. On March 9, 2003, I reviewed an audio/video recording of a consensual interview of **LEUNG** conducted on December 11, 2002 by SA Peter Duerst and SSA D. Brent Robbins. During that interview, both **LEUNG** and the interviewing agents refer to Smith as "JJ." **LEUNG** admitted to first becoming intimate with Smith in the early eighties "(v)ery long ago, but I cannot tell you what year."

#### **Smith's Access To Classified Materials**

12. As related in paragraph 7, above, Smith's position as both a Special Agent and later a Supervisory Special Agent of the Los Angeles FBI Chinese FCI squad afforded him access to classified material relating to Chinese FCI matters.

13. On March 10, 2003, I reviewed a report prepared by SA Stephen Phillips on February 5, 2003. From that review I learned

the following:

a. Prior to becoming a Special Agent, Phillips was a support employee in the FBI Los Angeles Office assigned to counterintelligence matters. His duties between June 1997 and June 2000 included logging TOP SECRET files and documents in and out of the Secure Compartmented Information Facility (SCIF).

b. The SCIF is a vault containing safes for the storage of TOP SECRET documents. Security regulations dictate that TOP SECRET materials be stored in a SCIF and be released from the SCIF only under certain conditions and pursuant to controls that assure the TOP SECRET documents are securely maintained.

c. During the period that SA Phillips worked in the SCIF, authorized personnel generally reviewed TOP SECRET documents in the SCIF. Occasionally, supervisory personnel would sign for TOP SECRET documents, take them from the SCIF to review in their offices, and then return the documents to SA Phillips in the SCIF. With the exception of SSA Smith, supervisory personnel always promptly returned TOP SECRET documents to the SCIF after reviewing them.

d. On at least one occasion when Smith checked out a TOP SECRET document from the SCIF, he did not return the document until the next day or perhaps the day after that. SA Phillips believed this happened in 1999. No other FBI personnel ever

retained TOP SECRET documents overnight that they had checked out from SA Phillips in the SCIF.

**Evidence Showing LEUNG Obtained National Defense Information From Smith**

14. On December 12, 2002, I spoke with FBI Assistant Section Chief (ASC) Bruce Carlson, who told me that on December 11, 2002, ASC Carlson met **LEUNG** at her residence so that she could voluntarily provide the FBI with certain items she had discussed during an interview with ASC Carlson that day. In the presence of ASC Carlson and SA Del Rosario, **LEUNG** voluntarily removed a document from a locked safe in the upstairs bedroom suite and provided it to ASC Carlson. As referenced in paragraph 22a, below, **LEUNG** admitted that she surreptitiously took this document from Smith.

15. I have reviewed a photocopy of that document and noted that it appears to include excerpts of transcripts and/or summaries of a conversation or conversations between a female named "Luo" and someone named "Mao." There are five pages. (As discussed in paragraph 22f, below, **LEUNG** stated during interviews that "Mao" was her MSS handler, and "Luo" was her MSS alias.)

16. On December 20, 2002, I spoke with SA Duerst and ASC Carlson, who told me the following: Both reviewed photocopies of the document provided by **LEUNG** from her safe. On December 16, 2002, they went to the FBI Los Angeles SCIF to examine TOP SECRET FBI documents. The documents had been transmitted by secure

means to the FBI Los Angeles Division from FBI Headquarters in Washington, DC. The documents contain verbatim transcripts and several summaries of conversations between a "Mao" and a "Luo." They learned in their review that the five-page document provided by **LEUNG** consists of identical portions of the TOP SECRET document they examined, although the line spacing and fonts differ.

17. On December 11, 2002, SA Bruce Carlson and SA Edgar Del Rosario engaged in a recorded conversation with **LEUNG**. I have reviewed a transcript of that conversation. During that conversation, **LEUNG** read the five-page document and stated that she recognized the document as her conversation with "Mao."

18. My training, experience, and review of the excerpted five-page document provided by **LEUNG** and the TOP SECRET document containing essentially the same information satisfy me that both documents contain national defense information within the meaning of Title 18, United States Code, Section 793(b).

19. On December 12, 2002, I participated in a limited consensual search of **LEUNG's** residence in San Marino, California. Also present and assisting in the search was SA Stephen Lawrence. Shortly thereafter, and again on March 7, 2003, SA Lawrence told me that while searching a shelf in a bookcase to the left of a desk on the second floor close to the stairs, he found the following documents: (1) a FBI Los Angeles NSD-2 squad telephone

directory dated December 20, 1994; (2) a telephone list relating to an FBI investigation codename "Royal Tourist"; (3) a SECRET FBI memorandum regarding Chinese fugitives dated June 12, 1997; and (4) a FBI Legat Directory dated March 17, 1994.

20. On March 11, 2003, I spoke with FBI SSA Serena Alston, who told me that "Royal Tourist" was the code name of an espionage investigation of Peter Lee. Lee was employed by TRW in California and admitted passing SECRET restricted information to the PRC during travel to the PRC in 1985. In 1997, Lee pled guilty to Title 18, United States Code, Section 793(d) (Willful Transmission of National Defense Information to a Person Not Entitled to Receive It).

21. Based on my training, experience, and review of the SECRET FBI memorandum dated June 12, 1997 found in **LEUNG's** residence, I believe that the document contains national defense information within the meaning of Title 18, United States Code, Section 793(b). This is because the 1997 memorandum was classified SECRET and discussed reporting of national defense information by a confidential FBI source.

22. On December 18, 2002, I spoke with ASC Carlson and SA Duerst who told me they had interviewed **LEUNG** over the course of several days between December 11 and December 21, 2002, and on January 6, 2003. These interviews were all videotaped and I have reviewed portions of those recordings. Based on my conversation

with ASC Carlson and SA Duerst, and my review of the recordings, I know the following occurred (among other things) during **LEUNG's** interviews:

a. With respect to the five-page document described in paragraphs 14 and 15, above, **LEUNG** at one point said that she did not remember how she obtained the document, but later stated "I think I sneaked it." **LEUNG** also stated that although Smith sometimes allowed her to review classified documents, he never permitted her to retain them.

b. During the interview, **LEUNG** was shown copies of the documents described in paragraph 19, above. The copies were all stapled together in a packet. When SA Duerst displayed this packet to **LEUNG** during the interview, **LEUNG** specifically admitted she took the NSD-2 squad telephone directory, and generally admitted surreptitiously taking and copying documents from Smith.<sup>1</sup>

c. **LEUNG** also admitted that Smith would leave his briefcase open, and that the file-folder pockets in the briefcase often contained documents, with the text facing out. **LEUNG**

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<sup>1</sup>On March 6, 2003, I reviewed portions of video/audio recordings of the consensual interviews of **LEUNG** conducted by SA Duerst and ASC Carlson on December 13, and 17, 2002. That review leads me to believe it is possible **LEUNG** did not explicitly admit stealing the 1997 memorandum, as indicated in my affidavit of December 20, 2002, referenced in paragraph 10, above. My review does indicate that **LEUNG** generally admitted surreptitiously taking and copying such documents from Smith.

stated this enabled her to see documents that she wanted, and that she would remove them and copy them without Smith's knowledge when he left his briefcase unattended.

d. **LEUNG** admitted that she made copies of documents from Smith's briefcase using either a photocopier or facsimile machine in her house. Generally, she stated that she would make handwritten notes from documents she surreptitiously copied, and then discard the copies in the trash.

e. **LEUNG** admitted that she also made notes regarding documents she surreptitiously obtained from Smith without copying the documents. **LEUNG** also made notes regarding information Smith told her. Over the years, **LEUNG** admitted that she provided intelligence she gained in this manner to the MSS.

f. **LEUNG** admitted that she had an MSS handler codenamed "Mao." "Luo" was her MSS alias, provided to her by a high ranking PRC official.

23. Investigation has revealed that Smith continued to provide information about the FBI and FBI Agents to **LEUNG** after he retired. On November 11, 2002, I participated in a FISC-authorized covert search of **LEUNG's** luggage at Los Angeles International Airport (LAX) prior to **LEUNG's** departure for the PRC. In **LEUNG's** luggage there was a facsimile cover sheet from Smith to **LEUNG**. A second page, bearing the same facsimile telephone number across the top, bore six photographs from a

meeting of the Society of Former Special Agents of the FBI, held in October 2002. Two of the photographs were of active-duty Special Agents who conduct community affairs for the Los Angeles FBI and attended the meeting. On November 25, 2002, I participated in a similar covert search of **LEUNG's** luggage at LAX when **LEUNG** returned from the PRC. That search was also authorized by the FISC. The photographs of FBI Agents observed in **LEUNG's** luggage for her outbound flight on November 11, 2002 were not present in her luggage when she returned.

24. On December 9 and 10, 2002, I monitored via closed circuit television as Smith was interviewed by FBI agents regarding his relationship with **LEUNG** and operation of her as an asset. During the interviews, Smith made the following statements:

a. At multiple points in the interview, Smith stated that any information **LEUNG** had obtained regarding FBI operations, sources, and the like, must have come from Smith.

b. Smith stated at several points in the interview that he had probably told **LEUNG** too much in the course of operating her as an asset.

c. When asked whether he was having a sexual relationship with **LEUNG**, Smith first refused to answer the question, and then denied having a sexual relationship. On November 5, 2002, I participated in a FISC-authorized electronic



surveillance of Smith and **LEUNG** at a hotel in the Los Angeles area. The electronic surveillance revealed Smith and **LEUNG** having sexual relations.

d. Smith stated he had traveled to Hong Kong in February 2001, and again a year or so later. Each trip was for about a week. Smith initially stated that he had traveled alone each time and had not met anyone there. Smith also reported business travel to London years earlier, but did not reveal that he had been in London with **LEUNG**.

e. Later in the interview, Smith again stated he traveled alone to Hong Kong, and that he had not gone with his wife or son. When specifically asked if **LEUNG** had accompanied him, Smith stated, "she's, she was there."

f. Later in the interview, Smith denied that he had traveled with **LEUNG** to any overseas location other than Hong Kong. When pressed, Smith stated that he had met with **LEUNG** in London, and had flown back to the United States with **LEUNG**.

**Evidence Showing Smith Knew LEUNG Had Unauthorized Contact With The MSS**

25. As explained in paragraphs 14 through 18, above, and 26d, below, the documents **LEUNG** obtained from the safe in her residence and provided to ASC Carlson on December 11, 2002 derived from a TOP SECRET document.

26. On March 26, 2003, I reviewed a memorandum prepared by SA Todd Wight, summarizing interviews conducted by the FBI of a former FBI SSA on December 19, 2002, January 28, February 3 and February 4, 2003. SA Wight's memorandum also summarized the former FBI SSA's career in the FBI. On March 10, 2003, I reviewed portions of transcripts of those interviews. I have also spoken with SA Duerst, who conducted the first three interviews of the former FBI SSA. From my review of Wight's memorandum and the transcripts, and from my discussions with SA Duerst, I learned that the former FBI SSA provided the following information during the interviews:

a. The former FBI SSA was the supervisor of a Chinese counterintelligence squad in the San Francisco FBI office, and knew both Smith and **LEUNG**. **LEUNG** provided information to the former FBI SSA and met many times with the former FBI SSA both in Los Angeles and San Francisco, often in the company of Smith.

b. During the second interview on January 28, 2003, the former FBI SSA admitted that he had a long-term sexual relationship with **LEUNG** while he was a Special Agent. The former FBI SSA stated that the relationship began in 1991 and continued until 1994. During the third interview on February 3, 2003, the former FBI SSA stated his sexual relationship with **LEUNG** began in 1989. On February 4, 2003, in a pre-polygraph examination interview, the former FBI SSA stated that his sexual relationship

with **LEUNG** began in 1988 and continued until his retirement in 1993. The former FBI SSA further stated that the affair continued in 1997 and 1999.

c. The former FBI SSA did not report his sexual relationship with **LEUNG** to the FBI. After he retired, he obtained employment with the University of California. That job requires a security clearance, and provides the former FBI SSA access to classified information. The former FBI SSA had not reported his sexual relationship with **LEUNG** to the University of California.

d. The San Francisco FBI had access to a TOP SECRET source, and it was that source which provided the information related in the TOP SECRET document and the related five-page document provided by **LEUNG** from her safe described in paragraphs 14 through 18, above. In 1991, the source provided an audio recording of the conversation between "Luo" and "Mao," transcriptions and/or summaries of which formed the substance of the TOP SECRET document and the related five-page document provided by **LEUNG**.

e. When the former FBI SSA listened to the audio recording provided by the source, he recognized the voice of "Luo" as **LEUNG**. The former FBI SSA immediately notified Smith in Los Angeles. The former FBI SSA was alarmed, because the recording revealed that **LEUNG** was communicating with the MSS

unbeknownst to Smith or the FBI, and passing information to the MSS without FBI authorization.

f. Smith immediately traveled to San Francisco from Los Angeles to confer with the former FBI SSA about this development. Smith told the former FBI SSA he was not aware of **LEUNG's** alias of "Luo" or her communications with "Mao." Smith was visibly upset at the news of **LEUNG's** unauthorized communication with the MSS.

g. The former FBI SSA relied on Smith as **LEUNG's** handler to appropriately address the problem. Sometime thereafter, prior to meeting with Smith and **LEUNG** again, the former FBI SSA asked Smith if the problem with **LEUNG's** unauthorized disclosures had been addressed, and Smith affirmed that it had.

#### **The LEUNGS' False Tax Returns and Mortgage Deductions**

27. As further detailed in paragraphs 28 through 33 below, the **LEUNGS** claimed mortgage interest deductions for the mortgage on their residence the residence was not in truth mortgaged. The **LEUNGS** were actually making mortgage payments to a foreign bank account they themselves controlled, even though the account was held in the name of their purported mortgage holder. They also did not report significant income from a foreign corporation and from the FBI.

28. On April 1, 2003, I conferred with SA Stephen Lawrence, who informed me that he is a licensed Certified Public Accountant (CPA), and that he had reviewed financial records pertaining to the **LEUNG**s as more specifically set forth below. On April 3, 2003, I conferred with FBI Financial Analyst (FA) Robert Nomasa Zalameda, who related to me the results of his investigation of **LEUNG's** finances. From those discussion, I learned the following:

a. The **LEUNG**s' personal tax returns for the years 1987 through 2001 were obtained from their paid tax preparer pursuant to a federal grand jury subpoena.

b. On January 8, 2003, Northern Telecom (Asia) Limited (Northern Telecom) was served with a subpoena for documents related to any contacts between Northern Telecom and **LEUNG**. On January 21, 2003, Northern Telecom provided documents responsive to that subpoena, which SA Stephen Lawrence reviewed. His review revealed the following:

i. On or about October 1, 1990, a "Representative Agreement" was signed between Northern Telecom, a corporation incorporated under the laws of Hong Kong, and Merry Glory Ltd., a corporation organized and existing under the laws of Hong Kong. Under the terms of the Representative Agreement, Northern Telecom appointed Merry Glory Ltd. as its representative with respect to the establishment of a joint venture in the PRC for the purposes

of manufacturing and selling Northern Telecom's DMS-100 family of digital switching systems. Also under the terms of the Representative Agreement, Merry Glory Ltd., which was to cause its services to be performed on its behalf by **LEUNG**, was to be paid a fee equivalent to three percent (3%) of the initial registered capital of the joint venture.

ii. On or about July 7, 1995, a check drawn on Northern Telecom's account was made payable to the order of Merry Glory, Ltd. in the amount of \$872,895.

iii. On or about November 19, 1996, a check drawn on Northern Telecom's account was made payable to the order of Merry Glory, Ltd. in the amount of \$321,416. As referenced in paragraph 33, below, **LEUNG** admitted that she controlled Merry Glory, Ltd.

c. SA Stephen Lawrence reviewed the **LEUNGs'** personal tax returns for 1987 through 2001, referenced above. His review indicated that the payments received from Northern Telecom were not reported on the **LEUNGs'** personal tax returns.

d. A review of public records available through the Choice Point Online database revealed that the **LEUNG** residence (located at **[Redacted by FindLaw]**, San Marino, California) was refinanced by a company named Right Fortune, Ltd., (RFL), on March 17, 1998. A trust deed was issued by RFL to Brindle Trust on the same date. A review of public records available through

the Lexis/Nexis database in conjunction with a review of records seized pursuant to the search warrant for **LEUNG's** residence, referenced in paragraph 10, above, revealed that the **LEUNGS** are the trustees of Brindle Trust.

e. The tax returns referenced above show that the **LEUNG's** claimed mortgage interest deductions in the amounts of \$46,420, \$46,420, \$39,572, and \$37,485 for mortgage payments made to RFL for the tax years 1998, 1999, 2000, and 2001, respectively. The tax returns also reflect that **[Redacted by FindLaw]** is the **LEUNGS'** home address.

f. FA Zalameda's financial investigation revealed that an account in the name of RFL is located at Hang Seng Bank Limited (HSBL) in Hong Kong. Financial analysis of the RFL account and the **LEUNGS'** joint account at Wells Fargo Bank revealed that in 1999, 2000, and 2001, **LEUNG** paid twelve monthly checks each year totaling, over the three-year period, \$216,072 to RFL. Each monthly check purported to represent a mortgage payment in the amount of \$6,002, and was made payable to RFL. All the checks were signed by **LEUNG**.

g. FA Zalameda's investigation also determined that fifty-five cancelled checks were drawn between approximately April 22, 1998 and approximately August 31, 2002 on the **LEUNGS'** Wells Fargo account. They were made payable to RFL and deposited in RFL's account at HSBL. Of the fifty-five checks, thirteen

appeared to be endorsed by **LEUNG's** husband (from May 28, 1998 through approximately June 21, 1999), and forty appeared to be endorsed by Kit Keung Leung ("Keung") (believed to be the uncle of **LEUNG's** husband in Hong Kong) (from March 24, 1999 through August 31, 2002). One of the checks' endorsements was unintelligible and one check, although indicated in bank statements, could not be located by the bank. On October 9, 2002, a FBI language specialist verified that **LEUNG's** husband's signature appeared in Chinese on the back of the thirteen checks described above.

29. As discussed above, **LEUNG** was the subject of FISC-authorized surveillance, including interception of facsimile and e-mail communications. On April 7, 2003, I reviewed some of the e-mails and facsimiles that were intercepted. Some of these communications were in the English language, while others were in Chinese (sometimes the Mandarin dialect, sometimes the Cantonese dialect). The Chinese communications had been translated by one of several FBI language specialists who are fluent in both Chinese (Mandarin and Cantonese dialects) and English. My review of the e-mails and facsimiles revealed the following:

a. On or about June 8, 2002, **LEUNG's** husband sent a reply e-mail to Keung (the individual who endorsed the forty checks referenced in paragraph 28g, above) acknowledging his receipt of Keung's prior e-mail. (The prior e-mail was attached



to **LEUNG's** husband's reply to Keung). The prior e-mail listed account balances for, among other accounts, an HSBL bank account in the name of RFL.

b. On or about July 3, 2002, a facsimile was sent from the **LEUNGs'** residence to Keung which contained two messages. The first message reflected, among other things, that Kenneth Mankin Chan ("Chan," believed to be **LEUNG's** brother) needed \$250,000 and that \$70,000 had already been remitted. Aside from the \$90,000 from the Bank of China (BOC), Keung was asked to "please remit another \$90,000 from Right Fortune." (BOC was formerly Hua Chiao Commercial Bank, and most of the records concerning BOC transactions pertinent to this investigation reference that former name.) The second message instructed "Please remit the other \$90,000 from Hang Seng Bank." It also requested that a receipt be returned via facsimile after each remittance.

c. On July 4, 2002, Keung sent a facsimile cover sheet and a BOC customer advice form to **LEUNG's** husband at their residence and to Chan. The cover sheet reflected that a remittance in the amount of \$90,000 had been carried out earlier that day from Keung's BOC account to Chan's account at East West Bank. It also reflected account balances for Keung's BOC account, the RFL account at HSBL, and a HSBL account held jointly by **LEUNG's** husband and Keung.

d. On July 9, 2002, Keung sent another facsimile cover sheet and a BOC customer advice form to **LEUNG's** husband at the **LEUNG** residence. The cover sheet reflected that Keung had just wired \$90,000 from his BOC account to Chan's account at East West Bank. It also reflected updated account balances for Keung's BOC account, the RFL account at HSBL, and a HSBL account held jointly by **LEUNG's** husband and Keung.

e. On July 23, 2002, Keung sent an e-mail to **LEUNG's** husband acknowledging that RFL's checks were received on that day.

30. On April 1, 2003, SA Stephen Lawrence informed me that he had also reviewed portions of **LEUNG's** FBI file regarding payments made to her by the FBI. His review indicated that between 1983 and 2002, the FBI paid **LEUNG** approximately \$1,197,449 for expense reimbursement and approximately \$521,440 for services provided as an FBI asset. Between 1987 and 2001 (the years for which the FBI was able to obtain corresponding tax returns, as referenced in paragraph 28a, above) the FBI paid **LEUNG** approximately \$1,097,585 for expense reimbursement and approximately \$435,575 for services provided as an FBI asset. SA Lawrence also found records in **LEUNG's** FBI file showing that, on September 25, 1985, Smith informed **LEUNG** that any payments she received from the FBI had to be considered income.

31. On April 4, 2003, I reviewed additional records from **LEUNG**'s FBI file which indicated that on May 23, 1996, Smith advised **LEUNG** that "all payments are to be reported to the Internal Revenue Service (IRS) as income."

32. SA Lawrence's review of the **LEUNGS**' personal tax returns for 1987 through 2001 revealed that the payments **LEUNG** received for services provided as an FBI asset were not reported on the **LEUNGS**' personal tax returns as required by the Internal Revenue Code.

33. My review of interviews of **LEUNG** referenced in paragraph 22, above, revealed that **LEUNG** admitted controlling overseas accounts in Hong Kong in the name of Merry Glory and Right Fortune. **LEUNG** further stated she used such accounts to create the appearance of a separate creditor to which she made mortgage payments, when in fact she was paying herself. **LEUNG** further stated that she bought her residence about twelve years ago for about \$1.4 million. She made a down payment of half that amount and financed the balance. When she received money from Northern Telecom, she deposited the funds into her Right Fortune account, and used the funds to pay the balance of her mortgage. This created the appearance she had refinanced with another company, and enabled her to falsely claim mortgage interest deductions for her residence after she had in fact paid her mortgage in full.

### CONCLUSION

34. Based on the foregoing, I believe probable cause exists that **KATRINA LEUNG** has committed a violation of Title 18, United States Code, Section 793(b) (Unauthorized Access and Willful Retention of Documents Relating to the National Defense), and request that a warrant issue for her arrest.

### REQUEST FOR SEALING

35. The criminal investigation described herein is continuing. Based on my training and experience, I believe that disclosure of the contents of this affidavit would seriously impede the investigation by disclosing details of the government's investigation and evidence gathered in connection herewith. The targets of the ongoing investigation would be able to learn the present extent of the government's knowledge. In addition, I believe disclosure of the information contained in this affidavit to Smith would significantly increase his apprehension of arrest and prosecution and therefore would increase the risk that he would destroy evidence and/or flee. For similar reasons, my request for sealing of the affidavit in support of a warrant to search **LEUNG's** residence (referenced in paragraph 10, above) was granted by the Court. Accordingly, I

request that the court issue an order sealing this affidavit and the sealing order, until the government notifies the court that it is appropriate to unseal these documents.

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RANDALL THOMAS  
Special Agent  
Federal Bureau of Investigation

Sworn and subscribed to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2003

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UNITED STATES MAGISTRATE JUDGE