

1 **I. INTRODUCTION**

2 Defendants should be detained because "no condition or
3 combination of conditions will reasonably assure the appearance
4 of the person as required." 18 U.S.C. § 3142(f). The evidence
5 in this case is sufficient to meet the government's "burden of
6 showing by a preponderance of the evidence that the defendant
7 poses a flight risk." United States v. Winsor, 785 F.2d 755, 757
8 (9th Cir. 1986).

9 On November 15, 2005, defendants were indicted for being
10 agents of the Peoples Republic of China ("PRC") who failed to
11 register as such as required by law, in violation of 18 U.S.C.
12 § 951. The Declaration of James E. Gaylord ("Gaylord Dec."),
13 attached herein, sets forth extensive evidence that defendants
14 passed information pertaining to U.S. Navy research projects to
15 the PRC, and pose an unreasonable risk of flight.¹

16 Defendants were arrested on October 28, 2005, when Tai Mak
17 and his wife, Fuk Li, were preparing to board a flight from LAX
18 to Hong Kong, continuing on to the PRC. In their luggage was an
19 encrypted disk containing information pertaining to research
20 conducted for the U.S. Navy.

21 The information on the disk was provided to Tai Mak by his
22 brother, Chi Mak. Chi Mak was a senior engineer at Power
23 Paragon, a defense contractor with more than 200 contracts with
24 the U.S. Navy. Chi Mak had a security clearance and had access
25

26 ¹ In detention hearings the government is allowed to
27 proceed by way of proffer and hearsay. Winsor, 785 F.2d at 757.
28 Cross-examination of SA Gaylord based on his declaration should
be allowed only if defendants give a proffer indicating what
portions of the government's proffer is incorrect. Id.

1 to sensitive information as part of his job.

2 In a post-arrest interview, Chi Mak admitted passing
3 sensitive defense-related information to the PRC since 1983. Chi
4 Mak admitted giving defense information to Tai Mak to deliver to
5 the PRC. Tai Mak encrypted the information prior to transporting
6 it. The encrypted disk found in Tai Mak's luggage at the time of
7 his arrest contained music files, with the encrypted files hidden
8 beneath the music files. Notably, the encrypted files and the
9 music files had to be loaded at the same time, indicating a
10 further step to hide the encrypted files by making the disk
11 appear to contain only music files.

12 In a search of Chi Mak's residence, agents found hundreds of
13 documents pertaining to defense programs that, while not
14 classified individually, were deemed sensitive and subject to
15 restriction on their distribution. Notably, a number of the
16 documents corresponded to technologies that were on "tasking
17 lists" found in Chi Mak's trash.

18 In a search of Tai Mak's home, agents found the laptop and
19 encryption disk used for encrypting the disk found at LAX. In
20 addition, agents found the original disks from Chi Mak containing
21 the information copied on to the encrypted disk at LAX. On Tai
22 Mak's laptop computer agents found the encrypted files that were
23 copied to the disk found at LAX, as well as approximately sixty
24 deleted files that had been encrypted in February 2004. The
25 deleted files were copied from a shared drive at Power Paragon,
26 Chi Mak's employer, and pertained to a Navy research project
27 conducted by Northrop Grumman Ship Systems, Inc. Those files
28 contained sensitive information and were subject to restrictions

1 on their distribution.

2 Both defendants have property in the PRC. Chi Mak, a
3 naturalized U.S. citizen, was planning to retire from Power
4 Paragon in March 2006 and return to the PRC. Tai Mak is a
5 citizen of the PRC. The U.S. does not have an extradition treaty
6 with the PRC.

7 **II. THE EVIDENCE SHOWS THAT DEFENDANTS PRESENT A SERIOUS FLIGHT**
8 **RISK**

9 1. Defendant Chi Mak Admitted Passing Information Relating
10 to U.S. Navy Research Projects to the PRC Through His
11 Brother Tai Mak

12 Chi Mak was interviewed on October 30, 2005, and made the
13 following admissions:

14 - Chi Mak began sending information to the PRC government
15 relating to U.S. Navy research projects in 1983. Gaylord
16 Dec. ¶ 3.

17 - Chi Mak delivered the documents to Tai Mak. Initially,
18 Chi Mak traveled to Hong Kong to give his brother the
19 documents. When Tai Mak moved to the U.S., Chi Mak gave him
20 the documents and Tai Mak would take them to their PRC
21 government contact. Chi Mak admitted that much of the
22 information he provided to his brother was designated
23 "NOFORN," meaning that it could not be given to foreign
24 nationals, and that other portions were export-controlled,
25 protected by the International Trade in Arms Regulations,
26 and should not be passed to a foreign nation. Id.

27 - Chi Mak admitted that the information he gave his brother
28 was given to a Mr. Pu in the PRC. Chi Mak stated that he

1 wasn't sure if Mr. Pu worked for either the PRC Peoples'
2 Liberation Army ("PLA") or China's intelligence services,
3 but he was sure that Mr. Pu worked for the Chinese
4 government. Chi Mak said that he knew that Mr. Pu was
5 providing the information to members of the Chinese
6 government's science and technology community. Id.
7 - Chi Mak said that he gave the information to the PRC
8 because he knew it would help the Chinese government's
9 science and technology community develop similar technology.
10 Id.

11 - Chi Mak admitted passing information to the PRC relating
12 to the following defense programs:

- 13 * DC/DC converters for U.S. Navy submarines.
- 14 * 5000 amp DC Hybrid Breaker for U.S. Navy submarines.
- 15 * Autobus transfer system for U.S. Navy submarines.
- 16 * Electro-Magnetic Aircraft Launch System - a system to
17 launch aircraft from carriers through the use of
18 magnets.
- 19 * U.S. Navy Aegis System - the Spy 1 Radar System power
20 distribution system.
- 21 * Survivability of Battleships Paper - concerning the
22 ability of a warship to continue operating after being
23 attacked. Id.
- 24 * MARF - Modifications and Additions to Reactor
25 Facility, a nuclear reactor located at the Knolls
26 Atomic Power Laboratory, used for testing prototype
27 nuclear reactors. (A detailed, hand-drawn map of that
28 facility was found in the search of Chi Mak's house.)

1 Id.

2 - Chi Mak admitted that his wife, co-defendant Rebecca Chiu,
3 traveled with him when they hand-delivered documents,
4 proposals, and technical manuals to Tai Mak. Chi Mak
5 admitted that his wife helped him send the information to
6 the PRC government and knew it was illegal. Id.

7 - Chi Mak admitted that he had a large number of documents
8 stamped "NOFORN" in his home that pertained to sensitive
9 Navy projects, and that he was not allowed by his employer,
10 Power Paragon, to have such documents in his home. Id.

11 - Chi Mak said that he and his wife kept their original Hong
12 Kong residency cards for the purpose of traveling to the PRC
13 without having their U.S. passports stamped by the PRC.

14 (Hong Kong residency cards allow the holders to travel into
15 mainland China without a passport.) Chi Mak could not
16 explain why he wanted to travel to the PRC without having
17 his and his wife's passports stamped. (A person spying for
18 a foreign government would avoid evidence associating them
19 with travel to that country.) Id.

20 - Chi Mak said that Tai Mak had voluntarily joined the PLA.
21 Chi Mak said that Tai Mak was responsible for organizing
22 propaganda gatherings, running audio-visual equipment for
23 the PLA, and was involved in military television projects.

24 Id.

25 - Chi Mak admitted that when he was first interviewed
26 following his arrest on October 28, he misled the agents as
27 to why he gave the disks to his brother. At that time, Chi
28 stated the disk would help Tai decide which electrical

1 engineering books Tai should purchase in Hong Kong for Chi.
2 Chi Mak later admitted that the reason he gave the disks to
3 his brother on October 23 was for the information to be
4 given to Mr. Pu in the PRC.² Id.

5 2. Defendants' Contact in the PRC is an Agent of the
6 Government of the PRC

7 As noted above, Chi Mak identified a Mr. Pu in the PRC as
8 the recipient of the information he was passing. On October 19,
9 Tai Mak called Mr. Pu identifying himself as being with "Red
10 Flower of North America," and explained that he had made
11 arrangements to arrive in Guangzhou in the PRC, and was leaving
12 Los Angeles on October 28. Historically, the PRC Intelligence
13 services utilize categories of codewords to designate
14 intelligence bureaus, such as "Winter Chrysanthemum" and "Autumn
15 Orchid." Gaylord Dec. ¶ 5. Mr. Pu told Tai Mak that he should
16 call him from the airport in Guangzhou using a calling card, and
17 that Mr. Pu would then pick him up at the airport. Gaylord Dec.
18 ¶ 5.

19 Materials seized from Tai Mak's house include a business
20 card with Mr. Pu's name, and a computer generated address book,
21 referencing several contact numbers, pagers and fax machines for
22 a Mr. Pu Pei-Liang. One of these same telephone numbers was
23 utilized by Tai Mak to contact Mr. Pu on October 19, 2005.
24 Gaylord Dec. ¶ 6. The same telephone numbers were found in notes
25 in Chi Mak's house. Id.

26
27 ² Tai Mak was also interviewed following his arrest at LAX
28 on October 28. Tai Mak denied he had a brother. Gaylord Dec. ¶
4. He also claimed that the encrypted disk contained only music
files and that he had loaded those files himself. Id.

1 As a result of Chi Mak's admissions and these telephone
2 numbers, agents from the Naval Criminal Investigative Service
3 ("NCIS") were able to later identify Pu Pei-Liang, aka David Pu,
4 as a research fellow with the Chinese Center for Asia Pacific
5 Studies ("CAPS") at Zhongshan University in Guangzhou. According
6 to NCIS agents, the PLA provides funding to CAPS and conducts
7 operational research for the PLA. CAPS represents itself as
8 keeping pace with the developing military trends worldwide.
9 Specific items of U.S. Navy technology have been sought by CAPS.³

10 3. Restricted Documents Pertaining to Naval Research
11 Programs Were Found in the Residences of Both
12 Defendants

13 a. Chi Mak's residence

14 The residence of Chi Mak and Rebecca Chiu was searched on
15 October 28. Gaylord Dec. ¶ 7. Agents found hundreds of
16 documents pertaining to Navy research projects, including those
17 marked NOFORN and with other export control restrictions. Those
18 documents include Electro-Magnetic Launch System ("EMALS") for
19 aircraft carriers, QED (Quiet Electric Drive), DDX (the next
20 generation destroyer for the Navy), Virginia-class submarine
21 weapons systems (e.g., a rotary electro-magnetic launcher for
22 torpedoes), Extended Range Guided Munitions ("ERG"), S9G (Nuclear
23 Submarine Reactor), "Team 2020 - Submarine of the Future," High
24 Power Electro Magnetic ("EM") guns, Submarine Mounted EM Gun

25
26 ³ Also found at Chi Mak's residence were business cards for
27 PRC government officials, including a Senior Engineer, Shanghai
28 Mechanical and Electrical Industries Administration; a Senior
Engineer, Ministry of Aviation, Civil Aircraft Bureau; and a
Deputy Director, Department of Facilities and Financial Support,
State Science and Technology Commission. Gaylord Dec. ¶ 7.

1 Hyper-Velocity Kinetic Energy Projectiles for Intercept of ICBM,
2 and Advanced Arresting Gear Engines (for carriers).

3 Notably, the documents found in the residence correspond to
4 the categories of technology found on PRC government "tasking
5 lists" that Chi Mak admitted receiving from his brother. Id.
6 Chi Mak told agents that he believed the tasking list came from
7 Mr. Pu. Id. at ¶ 3. Items on the tasking lists included
8 aircraft carrier electronic systems, EM gun intercept, artillery
9 and launch systems, water jet propulsion, power system
10 configuration, weapons standardization, submarine launch
11 technology, and the DDX program. A number of the documents had
12 the restriction stamps covered up. See Gaylord Dec., Ex.4, pp.
13 33, 35 and 37. Many of these programs were outside the scope of
14 Chi Mak's employment with Power Paragon. Id. As restricted
15 documents that were not within the scope of Chi Mak's employment,
16 he had no legitimate reason to have the documents in his
17 possession or "need to know."

18 b. Tai Mak's residence

19 During the search of Tai Mak's residence, agents found the
20 three CDs given to him by Chi Mak which contained the same files
21 found on the encrypted CD found in the luggage of Tai Mak and his
22 wife Fuk Li at LAX at the time of their arrest. Gaylord Dec. ¶
23 8. A search of Tai Mak's laptop computer revealed that the files
24 that were found on the three disks from Chi Mak, and the
25 encrypted disk, were also on the laptop in encrypted form. Id.

26 In addition, agents retrieved approximately sixty deleted
27 files from the laptop that had been encrypted. Id. The files
28 were decrypted and found to be documents pertaining to a DDX

1 defense research project by Northrop Grumman. Id. The documents
2 were marked proprietary and restricted to Department of Defense
3 employees and contractors. Gaylord Dec., Ex. 10. The data
4 showed that the files had been encrypted in February 2004.⁴ Id.
5 The files were in fact a copy of DDX documents found on a shared
6 drive from Power Paragon, a CD-Rom copy of which was also
7 recovered from Chi Mak's residence. Id. Tai Mak is not an
8 electrical engineer, and has no connection with Power Paragon or
9 any other defense contractor. Id. Tai Mak works as a Broadcast
10 and Engineering Director at a Chinese language television
11 station, and is paid by Asia Television in Hong Kong. Id.

12 Also found at Tai Mak's house was the encryption disk used
13 to encrypt the files found on the disk seized at LAX. Id. The
14 disk was in an envelope that contained a list of code words and
15 photographs of Tai Mak in a PLA uniform in 1970. Id.

16 4. Defendants Own Property in the PRC

17 Recovered during the search of the Tai Mak's home was a deed
18 to property owned by Tai Mak and his siblings in the PRC.
19 Gaylord Dec. ¶ 9. In addition, Chi Mak discussed the fact that
20 he also has a deed for property in the PRC in his name. Id.

21 Chi Mak was planning to retire in March 2006 and live in the
22 PRC. Gaylord Dec. ¶ 10. Chi Mak made a phone call to Hong Kong
23 on August 20, 2005, in which he asked about purchasing a home in
24 Hong Kong. Id. In a monitored conversation between Chi Mak and
25

26 ⁴ Evidence was recovered that shows that Chi Mak and
27 Rebecca Chiu traveled to the PRC in March 2004, shortly after the
28 disks were encrypted. Gaylord Dec. ¶ 8. It appears on this
occasion that Chi Mak and Rebecca Chiu may have delivered the
documents themselves.

1 Rebecca Chiu dated September 18, 2005, they discussed opening a
2 bank account in Hong Kong using their status as U.S. citizens.
3 Chi Mak stated that the bank account should be followed by a
4 "group class of Hong Kong Shanghai Banking Corporation." Id. In
5 discussing a return to the PRC, Chi Mak said "[w]e have to get to
6 Hong Kong. Even if we reside in Guangzhou and Shanghai, we still
7 need to keep a household registration in Hong Kong." Id. Most
8 of Chi Mak's wealth is liquid in the form of CDs, checking and
9 savings accounts. Id.

10 Given that Chi Mak was planning to retire in four months and
11 move back to the PRC, there is no reason for him to remain in the
12 U.S. to face criminal charges that carry a ten-year maximum
13 penalty.⁵ Indeed, as a result of his passing of sensitive
14 information to the PRC, Chi Mak has been fired from Power
15 Paragon, giving him even less reason to remain in the U.S.
16 Gaylord Dec. ¶ 10.

17 5. If Defendants Flee to the PRC They Would Be Beyond the
18 Reach of U.S. Extradition Treaties

19 If defendants flee, they would go to the PRC. Both
20 defendants were born in the PRC, and Tai Mak is still a citizen
21 of the PRC. Both defendants own property in the PRC. Both
22 defendants spent considerable time living in the PRC, and have
23 numerous relatives in the PRC. Gaylord Dec. ¶ 11.

24
25 ⁵ Section 951 is not assigned a specific Sentencing
26 Guideline section. Pursuant to § 2X5.1, the most analogous
27 section is § 2M3.1 (Gathering or Transmitting National Defense
28 Information to Aid a Foreign Government), which imposes a base
level of 37 for passing non-classified information to a foreign
government. That corresponds to a 210 to 262 month sentence
range.

1 If defendants were to flee to the PRC, they would be beyond
2 the reach of U.S. extradition, as the U.S. has no extradition
3 treaty with the PRC. See 18 U.S.C. § 3181. A defendant's
4 ability to flee to a country with which the U.S. lacks an
5 extradition treaty is a factor that the courts consider in
6 determining whether that defendant should be detained. See,
7 e.g., United States v. Epstein, 155 F. Supp. 2d 323, 325 (E.D.
8 Pa. 2001) ("[T]he United States and Brazil have no extradition
9 treaty. If [the defendant] were to flee to his homeland, there
10 is virtually no chance that he could ever be brought to justice
11 in the United States"); United States v. Hernandez, 154 F. Supp.
12 2d 240, 244 (D.P.R. 2001) ("[W]ere Defendant to flee to
13 Venezuela, the United States has presented evidence that suggests
14 his extradition would be illegal under the Venezuelan
15 Constitution"); United States v. Michaelson, 607 F. Supp. 693,
16 697 (E.D.N.Y. 1985) ("it is significant that there is no
17 extradition treaty between the United States and East Germany").
18 In this case, the fact that defendants might flee to the PRC
19 points to the need for their detention.

20 **III. CONCLUSION**

21 Defendants should be detained as unacceptable flight risks,
22 because no condition or combination of conditions will reasonably
23 assure their appearances as required.
24
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26
27
28

1 - Chi Mak began sending information relating to U.S. Navy
2 research projects in 1983.

3 - In each instance, Chi Mak delivered the documents to Tai
4 Mak. Initially, Chi Mak traveled to Hong Kong to give his
5 brother the documents. When Tai Mak moved to the U.S., Chi Mak
6 gave him the documents and Tai Mak would take them to the
7 PRC. Chi Mak admitted that information he provided to his
8 brother was designated "NOFORN," meaning that it could not
9 be given to foreign nationals.

10 - Chi Mak admitted that the information he gave his brother
11 was given to a Mr. Pu in the PRC. Chi Mak stated that he
12 wasn't sure if Mr. Pu worked for either the PLA or the
13 Chinese intelligence services, but was sure he worked for
14 the Chinese government. Chi Mak said that he knew that Mr.
15 Pu was providing the information to members of the Chinese
16 government's science and technology community.

17 - Chi Mak said that he gave the information to the PRC
18 because he knew it would help the Chinese government's
19 science and technology community develop similar technology.

20 - Chi Mak admitted passing information to the PRC relating
21 to the following defense programs:

22 * DC/DC converters for U.S. Navy submarines

23 * 5000 Amp DC Hybrid Breaker for U.S. Navy Submarines

24 * Autobus Transfer System for U.S. Navy Submarines

25 * Electro-Magnetic Aircraft Launch System - a system to
26 launch aircraft from carriers through the use of
27 magnets.

28 * U.S. Navy Aegis System - Spy 1 Radar power

1 distribution system.

2 * Survivability of Battleships paper - concerning the
3 ability of a warship to continue operating after being
4 attacked.

5 * MARF - Modifications and Additions to Reactor
6 Facility, a nuclear reactor located at the Knolls
7 Atomic Power Laboratory, used for testing prototype
8 nuclear reactors. (A detailed, hand-drawn map of that
9 facility was found in the search of Chi Mak's house.)

10 - Chi Mak admitted that his wife, co-defendant Rebecca Chiu,
11 traveled with him when they hand-delivered documents,
12 proposals, and technical manuals to Tai Mak. Chi Mak
13 admitted that his wife helped him send the information to
14 the PRC and knew it was illegal.

15 - Chi Mak admitted that he had a large number of documents
16 stamped "NOFORN" in his home that pertained to sensitive
17 Navy projects, and that he was not allowed by his employer,
18 Power Paragon, to have such documents in his home.

19 - Chi Mak said that he and his wife kept their original Hong
20 Kong residency cards for the purpose of traveling to the PRC
21 without having their U.S. passports stamped by the PRC.

22 (Hong Kong residency cards allow the holders to travel into
23 mainland China without a passport.) Chi Mak could not
24 explain why he wanted to travel to the PRC without having
25 his and his wife's passports stamped. Attached as Exhibits
26 1, 2, and 3, respectively, are copies of the Hong Kong
27 Permanent Residency Cards for Chi Mak, Rebecca Chiu, and Tai
28 Mak. I know from my experience conducting counter-

1 intelligence investigations that a person spying for a
2 foreign government would avoid evidence associating them
3 with travel to that country.

4 - Chi Mak said that Tai Mak had voluntarily joined the PLA.
5 Chi Mak said that Tai Mak was responsible for organizing
6 propaganda gatherings, running audio-visual equipment for
7 the PLA and was involved in military television projects.

8 - Chi Mak admitted that when he was interviewed following
9 his arrest on October 28, he misled the agents as to why he
10 gave the disks to his brother. On October 28, 2005, Chi Mak
11 told agents that the disk would help Tai decide which
12 electrical engineering books Tai should purchase in Hong
13 Kong for Chi. Chi Mak later admitted that the reason he
14 gave the disks to his brother on October 23 was for the
15 information to be given to Mr. Pu in the PRC.

16 4. Tai Mak was interviewed following his arrest on October
17 28. Tai Mak denied he had a brother. Tai Mak also denied there
18 were any encrypted files on the disk found in his luggage. The
19 encrypted disk found in Tai Mak's luggage at the time of his
20 arrest contained music files, with the encrypted files hidden
21 beneath the music files. Tai Mak stated that he had loaded the
22 music files onto the disk. I spoke with FBI computer analysts
23 who told me that the encrypted files and the music files had to
24 be loaded at the same time. I believe this indicates a further
25 step to hide the encrypted files by making the disk appear to
26 contain only music files.

27 5. I have reviewed a report of a phone call Tai Mak made on
28 October 19, 2005, to a Mr. Pu with Tai introducing himself as

1 being with "Red Flower of North America." I know that
2 historically, the PRC Intelligence services utilize categories of
3 codewords to designate intelligence bureaus, such as "White
4 Chrysanthemum" and "Autumn Orchid." Tai told Mr. Pu that he had
5 made arrangements to arrive in Guangzhou in the PRC, and was
6 leaving Los Angeles on October 28. Mr. Pu told Tai Mak that he
7 should call him from the airport in Guangzhou using a calling
8 card, and that Mr. Pu would then pick him up at the airport.

9 6. Investigation reveals that Mr. Pu is Pu Pei-Liang.
10 Telephone, pager, and fax numbers for Pu Pei-Liang were found on
11 a CD located in Tai Mak's home. A business card with Pu Pei-
12 Liang's name and telephone contact numbers was also found in Tai
13 Mak's residence. Pu Pei-Liang is also listed in three separate
14 telephone books or journals found in Tai Mak's residence. The
15 telephone number for Pu Pei-Liang was found in notes in Chi Mak's
16 house. Agents from the Naval Criminal Investigative Service
17 ("NCIS") later identified Pu Pei-Liang, aka David Pu, as a
18 research fellow with the Chinese Center for Asia Pacific Studies
19 ("CAPS") at Zhongshan University in Guangzhou. According to NCIS
20 agents, the PLA provides funding to CAPS and conducts operational
21 research. CAPS represents itself as keeping pace with the
22 developing military trends worldwide. Specific items of U.S.
23 Navy technology have been sought by CAPS.

24 7. On October 28, 2005, the residence of Chi Mak and
25 Rebecca Liu was searched. Agents found hundreds of documents
26 pertaining to Navy research projects, including those designated
27 NOFORN or carrying other export restrictions. Those documents
28 include Electro-Magnetic Launch System ("EMALS") for aircraft

1 carriers, QED (Quiet Electric Drive), DDX (the next generation
2 destroyer for the Navy), Virginia-class submarine weapons systems
3 (e.g., a rotary electro-magnetic launcher for torpedoes),
4 Extended Range Guided Munitions ("ERGM"), S9G (Nuclear Submarine
5 Reactor), "Team 2020 - Submarine of the Future," High Power
6 Electro Magnetic ("EM") guns, Submarine Mounted EM Gun Hyper-
7 Velocity Kinetic Energy Projectiles for Intercept of ICBMs, and
8 Advanced Arresting Gear Engines (for carriers). Notably, the
9 documents found in the residence correspond to categories of
10 technology found on PRC government "tasking lists" that Chi Mak
11 admitted receiving from his brother and his brother's wife. Chi
12 Mak told agents that he believed the tasking list came from Mr.
13 Pu. Items on the tasking lists included aircraft carrier
14 electronic systems, EM gun intercept, artillery and launch
15 systems, water jet propulsion, power system configuration,
16 weapons standardization, submarine launch technology, and the DDX
17 program. Many of these programs were outside the scope of Chi
18 Mak's employment with Power Paragon. As restricted documents
19 that were not within the scope of Chi Mak's employment, he had no
20 legitimate reason to have the documents in his possession.
21 Attached as Exhibit 4 are the face pages of some of the documents
22 found in the search of Chi Mak's residence. The documents
23 pertain to the DDX program and Virginia class submarines,
24 including stern configurations, a rotary electromagnetic launcher
25 for Virginia class submarines, and EM (electromagnetic) Gun
26 Operations. Notably, the face pages for the last three documents
27 had the "NOFORN - EB Proprietary Information" stamp covered up.
28 See Ex. 4, pp. 33, 35, and 37. "EB" stands for Electric Boat,

1 the company conducting the research. Attached as Exhibit 5 are
2 the tasking lists recovered from Chi Mak's trash, along with
3 translations. The lists include the DDX program and
4 electromagnetic launch systems Chi Mak was to collect - documents
5 that were found in Chi Mak's workplace. Also found at Chi Mak's
6 residence were business cards for PRC government officials,
7 including a Senior Engineer, Shanghai Mechanical and Electrical
8 Industries Administration; a Senior Engineer, Ministry of
9 Aviation, Civil Aircraft Bureau; and a Deputy Director,
10 Department of Facilities and Financial Support, State Science and
11 Technology Commission.

12 8. Also on October 28, 2005, a search was conducted of Tai
13 Mak's residence. Agents found the three CDs given to Tai Mak by
14 Chi Mak which contained the same files found on the encrypted CD
15 found in the luggage of Tai Mak and his wife Fuk Li at LAX at the
16 time of their arrest. Attached as Exhibits 6, 7, 8, and 9,
17 respectively, are copies of the encrypted CD and the three CDs
18 found in Tai Mak's residence. A search of Tai Mak's laptop
19 computer revealed that the files that were found on the three
20 disks from Chi Mak, and the encrypted disk, were also on the
21 laptop in encrypted form. In addition, agents retrieved
22 approximately sixty deleted files from the laptop that had been
23 encrypted. The files were decrypted and found to be documents
24 pertaining to a DDX defense research project by Northrop Grumman.
25 Attached as Exhibit 10 is a copy of the file list for some of the
26 deleted files, as well as pages from some of the deleted
27 documents. The documents are marked with restrictions limiting
28 their disbursement to Department of Defense employees and

1 contractors. The data showed that the files had been encrypted in
2 February 2004. In March 2004, Chi Mak and Rebecca Chiu traveled
3 to the Hong Kong and mainland China. Attached as Exhibit 11 are
4 documents showing their travel. Agents contacted Power Paragon
5 and learned that the deleted files on Tai Mak's laptop were in
6 fact exact copies of documents found on a share drive from Power
7 Paragon. I know from my participation in the investigation in
8 this case that Tai Mak is not an electrical engineer, and has no
9 connection with Power Paragon or any other defense contractor.
10 Tai Mak works as a Broadcast and Engineering Director at a
11 Chinese language television station, and is paid by Asia
12 Television located in Hong Kong. Also found at Tai Mak's house
13 was the encryption disk used to encrypt the files found on the
14 disk seized at LAX. Attached as Exhibit 12 is a copy of the
15 encryption disk. The disk was in an envelope that contained a
16 list of code words and photographs of Tai Mak in the uniform of
17 the PRC army. Attached as Exhibits 13 and 14, respectively, are
18 copies of the code list and the photos of Tai Mak in his PLA army
19 uniform.

20 9. I have reviewed a report of a monitored telephone call
21 between Chi Mak and his older sister that occurred on December 1,
22 2004. During the call, Chi's sister said that she had taken care
23 of matters in the PRC for Chi and Tai, and had their deeds.
24 During the search of Tai Mak's home, agents found a deed for
25 property in China belonging to Tai Mak and his siblings. A copy
26 of the deed is attached as Exhibit 15.

27 10. I know from reviewing monitored phone calls and
28 conversations involving Chi Mak, Rebecca Chiu, and their

1 colleagues, that Chi Mak was planning to retire in March 2006 and
2 return to the PRC. I reviewed a report of a monitored phone call
3 Chi Mak made to Hong Kong on August 20, 2005, in which he asked
4 about purchasing a home in Hong Kong. Most of Chi Mak's wealth
5 is liquid in the form of CDs, checking and savings accounts, and
6 thus could easily be removed from the U.S. I reviewed a
7 monitored conversation between Chi Mak and Rebecca Chiu dated
8 September 18, 2005, in which they discussed opening a bank
9 account in Hong Kong using their status as U.S. citizens. Chi
10 Mak stated that the bank account should be followed by a "group
11 class of Hong Kong Shanghai Banking Corporation." In discussing
12 a return to the PRC, Chi Mak said "[w]e have to get to Hong Kong.
13 Even if we reside in Guangzhou and Shanghai, we still need to
14 keep a household registration in Hong Kong." As a result of his
15 passing of sensitive information to the PRC, Chi Mak has been
16 fired from Power Paragon.

17 11. I know from my investigation that defendants were born
18 in the PRC. Chi Mak is a naturalized U.S. citizen. Tai Mak is
19 still a citizen of the PRC who holds a green card. Both
20 defendants have numerous relatives in the PRC. Attached as
21 Exhibit 16 is a copy of Tai Mak's Chinese passport. The stamps
22 represent travel between Hong Kong and the PRC.

23 I declare under penalty of perjury that the foregoing is
24 true and correct. Executed on November 18, 2005, in Santa Ana,
25 California.

26
27 _____
28 JAMES E. GAYLORD
Special Agent, FBI