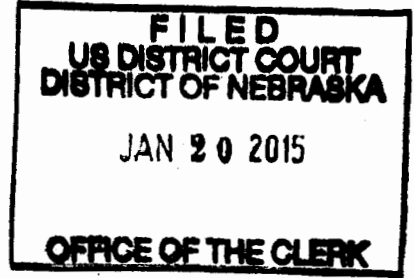


AO 108 (Rev. 06/09) Application for a Warrant to Seize Property Subject to Forfeiture

UNITED STATES DISTRICT COURT
for the
District of Nebraska



In the Matter of the Seizure of)
(Briefly describe the property to be seized))
Up to \$17,200,000 in Shanghai Pudong Development Bank of account) Case No. 8:15MJ9
number osa 11443632375915, held at SPDB, 12, Zhong Shan Dong Yi)
Road, Shanghai 200002, China, held in the name of Dadi CO LTD)

APPLICATION FOR A WARRANT
TO SEIZE PROPERTY SUBJECT TO FORFEITURE

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property outside the District of Nebraska is subject to forfeiture to the United States of America under 18 U.S.C. § 981 (describe the property):

Up to \$17,200,000 in Shanghai Pudong Development Bank of account number osa 11443632375915, held at SPDB, 12, Zhong Shan Dong Yi Road, Shanghai 200002, China, held in the name of Dadi CO LTD

The application is based on these facts:
Affidavit of Sara Kane

Continued on the attached sheet.

Sara Kane
Applicant's signature

SA Sara Kane, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 1/20/15



City and state: Omaha, Nebraska

F.A. GOSSETT, III U.S. Magistrate Judge
Printed name and title

SARA A. KANE, being first duly sworn, hereby deposes and states as follows:

I. INTRODUCTION

1. I am presently employed as a Special Agent of the Federal Bureau of Investigation ("FBI"), and am assigned to the Cyber Task Force of the Omaha Field Office in the District of Nebraska. I have been employed by the FBI since April of 2011, including five months of training at the FBI academy in Quantico, Virginia. At the FBI academy I received training in federal criminal statutes relating to computer and financial based crime, as well as training in how to conduct investigations of computer and financial based crimes. Subsequent to my initial training at the FBI academy I have received additional training in the investigation of computer and financial related crimes. My current duties include the full-time investigation of computer related crimes, which often involve financial institutions, and I have participated in numerous investigations involving computer and high technology related crimes. Previous to my employment with the FBI, I obtained a Bachelor's degree in Geology, along with a Master's degree in Geographic Information Systems, and was employed in the geographic information industry for approximately nine years. As a result of my training and experience, I am familiar with information technology and its use in criminal activities,

and with financial related crime. I am empowered to conduct investigations of and to make arrests for offenses enumerated in Title 18 U.S.C. § 1030 and for other federal felony offenses.

PURPOSE OF AFFIDAVIT AND PROPERTY TO BE SEIZED

2. This affidavit is submitted in support of the Government's application, pursuant to 18 U.S.C. § 981(a)(1)(C) and (b)(3) for the issuance of warrants to seize and forfeit all funds up to \$17,200,000 (the "Subject Funds") in Shanghai Pudong Development Bank ("Shanghai Pudong" or "SPDB"), account number osa 11443632375915 (the "Subject Account"), held at SPDB, 12, Zhong Shan Dong Yi Road, Shanghai 200002, China, held in the name of DADI CO LTD.

3. As set forth below, DADI CO LTD was and is the principal recipient of funds obtained by defrauding a company in the United States.

4. As set forth below, there is probable cause to conclude that at least \$17,200,000 in funds deposited into an account held by DADI CO LTD at Shanghai Pudong is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), as property involved in transactions or attempted transactions in violation of 18 U.S.C. § 1343. The account held

by DADI CO LTD at Shanghai Pudong containing funds for which forfeiture is sought are set forth in Attachment A.

5. This affidavit is based primarily upon my review of documents and other evidence, and my conversations with other law enforcement officers and other people having knowledge of information relevant to information contained within this affidavit. Because this affidavit is being submitted for the limited purpose of establishing probable cause for the issuance of seizure warrants, it does not include all the facts that I have learned during the course of this investigation. Nor does it describe all of the actions the Government has taken during the course of this investigation. Where the contents of documents and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

II. STATUTORY AUTHORITY FOR SEIZURE WARRANTS

6. As described in Part III, below, there is probable cause to conclude that the Subject Funds are subject of forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C), because the Subject Funds constitute proceeds of violation of 18 U.S.C. § 1343, which is an offense constituting "specified unlawful activity," defined under 18 U.S.C. § 1956(c)(7) as an any act or

activity constituting an offense listed under 18 U.S.C. § 1961(1).

7. 18 U.S.C. § 981(b)(3) is the provision authorizing the issuance of seizure warrants in any District in which a forfeiture action may be brought. In particular, Section 981(b)(1)(3) provides "[n]otwithstanding the provisions of rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of Title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of any foreign state for service in accordance with any treaty or other international agreement."

8. 28 U.S.C. § 1355(b)(1) provides "a forfeiture action or proceeding may be brought in . . . the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred."

III. PROBABLE CAUSE FOR SEIZURE WARRANT

9. Based on my interviews of Keith McMurtry, Corporate Controller, Joan Maclin, Senior Vice President and General Counsel, and Roger Barber, Chief Financial Officer, The Scoular Company, a U.S. Company with locations in Omaha, Nebraska,

Minneapolis, Minnesota, and Overland Park, Kansas and a review of emails obtained by consent from The Scoular Company, I believe there is probable cause to conclude DADI CO LTD received three international wire transfers of funds from The Scoular Company based on a scheme to defraud.

10. Based on my review of an email dated June 26, 2014 12:21 PM, which was obtained via consent from The Scoular Company, I understand the following:

- a. The email was sent from the email account ft-809@outlook.com ('emailaccount-1')
- b. The name associated with emailaccount-1 was listed as "Chuck Elsea".
- c. The email from emailaccount-1 was sent to Keith McMurtry, Corporate Controller of The Scoular Company, at Keith McMurtry's assigned email address of kmcmurtry@scoular.com.
- d. The body of the email contained the following, among other things:

I have assigned you to manage file FT-809

This is a strictly confidential operation, to which takes priority over other tasks.

Have you already been contacted by Rodney Lawrence (attorney from KPMG)?

This is very sensitive, so please only communicate with me through this email, in order for us not to infringe SEC regulations.

Regards, Chuck Elsea

11. Based on my review of an email dated June 26, 2014 12:41 PM, which was obtained via consent from The Scoular Company, I understand the following:

- a. The email was sent from the email account ft-809@outlook.com ("emailaccount-1").
- b. The name associated with emailaccount-1 was listed as "Chuck Elsea".
- c. The email was sent to Keith McMurtry, Corporate Controller of The Scoular Company, at Keith McMurtry's assigned email address of kmcmurtry@scoular.com.
- d. The body of the email contained the following, among other things:

Yes, that's the lawyer in charge.

I need you to take care of this.

For the last months we have been working, in coordination and under the supervision of the SEC, on acquiring a Chinese Company.

We anticipate making a public announcement on/around July 11.

Please reach out to attorney Rodney Lawrence from KPMG for the bank details that includes information on where funds need to be deposited.

Only after this is completed the contract can be executed :

Rodney Lawrence: Rodney.lawrence@kpmg-office.com
tel(312) 957-6004

Leaks could endanger the contract's execution, in addition to its intrinsic value.

Thanks, Chuck

12. Based on my review of an email dated June 26, 2014 1:23 PM, which was obtained via consent from The Scoular Company, I understand the following:

- a. The email was sent from the email account 'rodney.lawrence@kpmg-office.com' ("email account-2").
- b. The name associated with the email account-2 was listed as 'Rodney Lawrence'
- c. The email was sent to Keith McMurtry, Corporate Controller of The Scoular Company, at Keith McMurtry's assigned email address of kmcmurtry@scoular.com.
- d. The body of the email contained the following, among other things:

Dear Mr. McMurtry,

Please see here below the wire details:

Bank: Shangai Pudong Development Bank
Address: Offshore Banking Unit, 12 Zhong Shan
Dong Yi Lu, 200002 Shangai, China
Beneficiary name: DADI CO LTD

Account number: osa11443632375915
Swift: SPDBCNSHOSA
Amount: USD 780,000.00 (seven hundred eighty thousand us dollars)
Details: FT-809

As soon as you have the wire confirmation, please send it to me.

Regards,
Rodney Lawrence, Attorney
International Tax Chief Operating Officer
KPMG International Department
(312) 957-6004

13. Based on my review of a WhoIs lookup of the domain 'kpmg-office.com' associated with emailaccount-2, I understand the domain 'kpmg-office.com' was registered by 'Nina Sarousky', 27 rue de la pompe, Paris France on June 25, 2014 and the server is physically located in Moscow, Russia.

14. Based on my review of telephone carrier databases the telephone number listed for 'Rodney Lawrence' in the email from emailaccount-2 is a Skype account.

15. On or about July 17, 2014, the FBI requested information from Skype, related to the telephone number (312) 957-6004. Agents learned the account was registered on 06/25/2014 using an IP address based in Israel.

16. Based on my review of wire transfer records provided by the victim company, I understand the following:

- a. On June 26, 2014, the Corporate Controller of The Scoular Company completed a wire transfer request from The Scoular Company's Wells Fargo bank account number 1150021151; bank reference number 140626112725 in the amount of \$780,000.00.
- b. The receiving bank of the wire transfer was Shanghai Pudong Development Bank, 12 Zhong Shan Dong Yi Lu Shanghai, China 200002, bank account number osall443632375915, beneficiary DADI CO LTD.

17. Based on my review of an email dated June 27, 2014 11:26 AM, which was obtained via consent from The Scoular Company, I understand the following:

- a. The email was sent from the email account ft-809@outlook.com ("emailaccount-1").
- b. The name associated with emailaccount-1 was listed as "Chuck Elsea".
- c. The email was sent to Keith McMurtry., Corporate Controller of The Scoular Company, at Keith McMurtry's assigned email address of kmcmurtry@scoular.com.
- d. The body of the email contained the following, among other things:

Following my conversation with Rodney, SEC require us to close the deal by Monday, as further leaks could endanger the acquisition. In order to avoid any penalties we will execute the wire immediately.
Total deal is \$ 7,800,000.00 less the 10% deposit wired yesterday.
Balance to pay: \$ 7,020,000.00 (seven millions and twenty thousand us dollars).
Please proceed asap with the wire to the same beneficiary and bank account as yesterday. Once you have the swift confirmation, please email it to Rodney.
Thanks for your help in this important and sensitive matter.
Chuck.

18. Based on my review of wire transfer records provided by The Scoular Company, I understand the following:

- a. On June 27, 2014, the Corporate Controller of The Scoular Company completed a wire transfer request from The Scoular Company's Wells Fargo bank account number 1150021151; bank reference number 140626112725 in the amount of \$7,020,000.
- b. The receiving bank of the wire transfer was Shanghai Pudong Development Bank, 12 Zhong Shan Dong Yi Lu Shanghai, China 200002, bank account number osall1443632375915, beneficiary DADI CO LTD.

19. Based on my review of an email dated June 30, 2014 10:30 AM, which was obtained via consent, I understand the following:

- a. The email was sent from the email account ft-809@outlook.com ("emailaccount-1").
- b. The name associated with emailaccount-1 was listed as "Chuck Elsea".
- c. The email was sent to Keith McMurtry, Corporate Controller of The Scoular Company, at Keith McMurtry's assigned email address of kmcmurtry@scoular.com.
- d. The body of the email contained the following, among other things:

The deal was closed, and we are waiting to receive the executed documents and the SEC decision regarding the final day for the release of the information. Please make another wire of \$9,400,000.00 to the same beneficiary. We need the company to be funded properly and to show sufficient strength towards the Chinese. Keith, I will not forget your professionalism in this deal, and I will show you my appreciation very shortly. Awaiting your swift (with copy to Rodney) once the wire has been processed. Please proceed asap as Rodney need the confirmation by 1 pm. Chuck

20. Based on my review of wire transfer records provided by the victim company, I understand the following, in substance and in part:

- a. On June 30, 2014, the Corporate Controller of The Scoular Company completed a wire transfer request from The Scoular Company Wells Fargo bank account number 1150021151; bank reference number 140626112725 in the amount of \$9,400,000.
- b. The receiving bank of the wire transfer was Shanghai Pudong Development Bank, 12 Zhong Shan Dong Yi Lu Shanghai, China 200002, bank account number osal1443632375915, beneficiary DADI Co LTD.

21. In addition to the aforementioned emails, on or about June 26, 2014 at approximately 12:21 PM through July 2, 2014 at approximately 8:59 AM CDT, Keith McMurtry, Corporate Controller of The Scoular Company received fourteen emails from the email accounts ft-809@outlook.com ('emailaccount-1') and rodney.lawrence@kpmg-office.com ('emailaccount-2'). Keith McMurtry responded to emailaccount-1 and emailaccount-2 approximately eleven times.

22. On or about July 17, 2014, the FBI requested information from Microsoft Corporation, related to emailaccount-1 used to facilitate the scheme. Agents learned the account was registered on June 25, 2014 using an IP address based in Germany

and all logins to the email account-1 occurred from an IP address located in Germany.

23. On or about July 11, 2014, I interviewed Keith McMurtry, Corporate Controller for The Scoular Company, who stated the following:

The employee was not suspicious of the three wire transfer requests since the Victim Company had been recently been discussing expanding their presence in China, he was currently working on the annual audit with auditors from KPMG, the email address used by 'Rodney Lawrence' looked like the valid email domain for KPMG, a person who identified themselves as 'Rodney Lawrence' answered the telephone number (312) 957-6004, and 'Chuck Elsea' is the name of the CEO for The Scoular Company.

24. On or about July 2, 2014, I interviewed Roger Barber, Vice President and Treasurer of The Scoular Company, who stated the following:

- a. The Scoular Company CEO ChuckElsea, did not request three wire transfers on June 26, 27 and 30, 2014 using the email address ft-809@outlook.com.

- b. Two phone calls were received by Keith McMurtry on June 26, 2014 at approximately 8:30 AM and 12:03 PM CDT, asking about the status of the wire transfers.

25. On or about August 5, 2014, I interviewed Joan Maclin, Senior Vice President and General Counsel for the Scoular Company, who stated the following:

- a. The Scoular Company's financial institution, Wells Fargo, informed The Scoular Company representatives DADI CO LTD was a company that manufactured army boots and DADI CO LTD claimed the wire transactions were part of a sales contract for the manufacture of boots.
- b. The Scoular company did not purchase boots from DADI CO LTD., but rather wired \$17,200,000.00 into a bank account held on behalf of DADI CO LTD as a result of fraudulent and false representations.

26. On or about 2014, I interviewed Rodney Lawrence, International Tax Chief Operating Officer of KPMG, who stated the following:

- a. Rodney Lawrence was not familiar with The Scoular Company and had no communications or interactions with employees of The Scoular Company.

27. I have reviewed emails discussing payments in U.S. dollars, wire transfer records showing three transfers from Wells Fargo account number 1150021151 to Shanghai Pudong Development bank account number osa11443632375915 totaling \$17,200,000, and other documents provided to me or other law enforcement agents. From this review, there is probable cause to conclude that between at least June 26, 2014, and June 30, 2014, \$17,200,000.00 have been deposited into bank account osa11443632375915 held on behalf of DADI CO LTD and/or the DADI CO LTD ENTITIES as a result of fraudulent interstate email communications.

IV. CONCLUSION

28. Based upon the information contained herein, there is probable cause to believe that the Subject Funds are proceeds or are funds traceable to 18 U.S.C. § 1343, wire fraud. The Subject Funds are therefore subject to seizure and forfeiture pursuant to 18 U.S.C. §§ 981 (a)(1)(C) and (b)(1)(3), 1956 (c)(7) and 1961. To the extent that the Subject Funds are not the actual monies traceable to or involved in the illegal activities identified herein, the government alleges that these funds are identical property found in the same account as the property traceable to or involved in the illegal activities, rendering these funds subject to forfeiture pursuant to 18 U.S.C § 984.

Title 18 U.S.C § 984 provides the government limited authority to forfeit fungible property. If the subject of the forfeiture action is cash, monetary instruments in bearer form, funds deposited in a "financial institution" (as defined in 18 U.S.C § 20), or precious metals, this statute provides that:


(A) it shall not be necessary for the government to trace or identify the specific property involved in the violation and that any identical property found in the same place or account as the property involved in the offense that is the basis of forfeiture may be forfeited in its place; and

(B) it is not a defense that the property actually involved in the violation has been removed and replaced with identical property.

Actions to forfeit "fungible property" under this statute must be commenced within one year from the date of the offense giving rise to the forfeiture.

29. Should the Court determine that there is probable cause to issue a seizure warrant in this matter, the seizure will be executed by authorities in China pursuant to a request by the United States under a mutual legal assistance agreement with China.

Dated this 20 day of January, 2015.


Sara A. Kane
Special Agent
Federal Bureau of Investigation



Subscribed and sworn to before me this 20 day of January, 2015.


F.A. GOSSETT, III
UNITED STATES MAGISTRATE JUDGE
DISTRICT OF NEBRASKA

~~SEALED~~

AO 109 (Rev. 11-13) Warrant to Seize Property Subject to Forfeiture

COPY UNITED STATES DISTRICT COURT

for the

In the Matter of the Seizure of)
(Briefly describe the property to be seized))
Up to \$17,200,000 in Shanghai Pudong Development Bank of account)
number osa 11443632375915, held at SPDB, 12, Zhong Shan Dong Yi)
Road, Shanghai 200002, China, held in the name of Dadi CO LTD)
Case No. 8:15MJ9)
)

WARRANT TO SEIZE PROPERTY SUBJECT TO FORFEITURE

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests that certain property located _____ outside the _____ District of _____ Nebraska _____ be seized as being subject to forfeiture to the United States of America. The property is described as follows:

Up to \$17,200,000 in Shanghai Pudong Development Bank of account number osa 11443632375915, held at SPDB, 12, Zhong Shan Dong Yi Road, Shanghai 200002, China, held in the name of Dadi CO LTD

I find that the affidavit(s) and any recorded testimony establish probable cause to seize the property.

YOU ARE COMMANDED to execute this warrant and seize the property on or before

2/5/15
(not to exceed 14 days)

in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

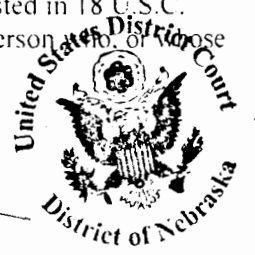
Unless delayed notice is authorized below, you must also give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

An officer present during the execution of the warrant must prepare, as required by law, an inventory of any property seized and the officer executing the warrant must promptly return this warrant and a copy of the inventory to

F.A. GOSSETT, III
(United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person whose property, will be searched or seized *(check the appropriate box)*

for _____ days (not to exceed 30) until, the facts justifying, the later specific date of



Date and time issued: *1/20/15 2:30PM*

[Signature]
Judge's signature

City and state: Omaha, Nebraska

F.A. GOSSETT, III U.S. Magistrate Judge
Printed name and title

AO 109 (Rev. 11/13) Warrant to Seize Property Subject to Forfeiture (Page 2)

Return		
Case No.:	Date and time warrant executed:	Copy of warrant and inventory left with:
8:15MJ9		
Inventory made in the presence of:		
Inventory of the property taken:		
Certification		
<p>I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.</p>		
Date:		<p><i>Executing officer's signature</i></p> <p><i>Printed name and title</i></p>