

RSH

UNSEALED (cum 9/17/13)

FILED
13 SEP 12 PM 2:22

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Case No.: **13MJ3457**

Plaintiff,

COMPLAINT

v.

Title 18, U.S.C., Sec. 371 – Conspiracy to
Commit Bribery

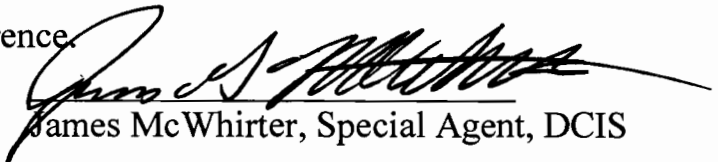
LEONARD GLENN FRANCIS (1),
and MICHAEL VANNEK KHEM
MISIEWICZ (2),

Defendants.

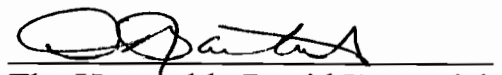
The undersigned complainant being duly sworn states:

Beginning no later than on or about July 4, 2011, and continuing up to September 2013, defendants LEONARD GLENN FRANCIS and MICHAEL VANNEK KHEM MISIEWICZ, and others, did knowingly and unlawfully conspire to commit bribery, in violation of Title 18, United States Code, Section 201(b)(1)(C), with such offense begun or committed outside any particular district; all in violation of Title 18, U.S. Code, Section 371.

The complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


James McWhirter, Special Agent, DCIS

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 12th DAY
OF SEPTEMBER, 2013


The Honorable David H. Bartick
United States Magistrate Judge



AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, JAMES McWHIRTER, being duly sworn, depose and state as follows:

AFFIANT

1. I am a Special Agent with the Department of Defense, Office of Inspector General, Defense Criminal Investigative Service (“DCIS”), Long Beach Resident Agency. I have been so employed since May 2009. Prior to my employment with DCIS, I was a special agent with the U.S Postal Service Office of Inspector General for approximately two years and prior to that a special agent with the U.S. Army Criminal Investigation Command for approximately 10 years. In addition to my law enforcement experience, I was employed for approximately 9 years as an auditor for the Defense Contract Audit Agency. I have received specialized training in the investigation of various financial and white collar crimes and I have personally conducted or assisted in the investigation of violations of U.S. law to include bribery, kickbacks, public corruption, conspiracy, theft, money laundering, conflicts of interest, mail fraud and anti-trust violations. I have prepared numerous affidavits to support the establishment of probable cause for search and arrest warrants. I am familiar with the facts set forth below based upon my own investigative findings and conversations with other participating law enforcement agents.

INTRODUCTION

2. In conjunction with the United States Department of Justice (“DOJ”), the Naval Criminal Investigative Service (“NCIS”), the Defense Contract Audit Agency (“DCAA”), and colleagues from DCIS, I have been investigating, among other allegations, fraud and bribery allegations involving LEONARD GLENN FRANCIS (“FRANCIS”) and his company, Glenn Defense Marine (Asia) (“GDMA”), which acts as a general contractor to the United States Navy.

As part of this investigation, agents are examining whether FRANCIS and GDMA committed fraudulent practices in the performance and billing of GDMA's contract to perform ship husbanding services to the U.S. Navy; whether things of value were improperly given to various U.S. Navy and other government personnel by FRANCIS and GDMA; and whether FRANCIS, GDMA, U.S. Navy and other government personnel have obstructed justice.

3. Based on the facts as set forth below in this affidavit, I respectfully submit that there is probable cause to believe that FRANCIS, a Malaysian citizen who lives in Singapore, and United States Navy Commander MICHAEL VANNAK KHEM MISIEWICZ ("MISIEWICZ") have conspired to commit bribery, in violation of 18 U.S.C. § 371. Specifically, as set forth below, there is probable cause to believe that to promote and protect GDMA's business, FRANCIS agreed with MISIEWICZ to make, and facilitate the making of the payment of things of value, including travel expenses, entertainment, and prostitutes, to MISIEWICZ in return for him violating his official and lawful duties by transmitting classified information to a person not entitled to receive it, and making unauthorized disclosures of proprietary, internal U.S. Navy information, and for him being influenced in the performance of official acts, including recommending where U.S. Navy ships came to port.

4. As defined by 18 U.S.C. § 3238, this offense was begun and committed on the High Seas or otherwise out of the jurisdiction of any particular district, and thus, venue is proper for this offense in the Southern District of California, as the District in which one or more joint offenders, namely FRANCIS, will be arrested in connection with this offense.

5. This affidavit is intended to demonstrate that there is probable cause to charge FRANCIS and MISIEWICZ, and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based upon my training and experience as well as my and

members of the investigations' personal observations; review of documents; interviews of witnesses; and review of physical evidence obtained during the course of this investigation. The documents obtained and reviewed include documents from the U.S. Navy submitted by or pertaining to GDMA; emails and email account information from U.S.-based email service providers, specifically including email accounts issued to FRANCIS, MISIEWICZ, and other persons associated with the matters under investigation; information from U.S.-based credit reports, bank account and credit card information; internal GDMA documents and emails; and telephone records.

BACKGROUND

6. The U.S. Navy is a branch of the U.S. Department of Defense, whose mission is to maintain, train and equip combat-ready naval forces capable of winning wars, deterring aggression and maintaining freedom of the seas. The U.S. Navy Naval Supply Systems Command ("NAVSUP") is a command within the U.S. Navy, which is responsible for the global supply and delivery of goods and services to U.S. Navy personnel and warfighting assets. The U.S. Navy Fleet Logistics Centers ("FLC") are subordinate commands of NAVSUP located in various domestic and foreign locations and they provide logistics support for all naval installations and vessels operating in each location's area of responsibility. In particular, the NAVSUP FLC commands are responsible for the soliciting, awarding and overseeing contracts awarded to entities for goods and services, including ship husbanding, required by the U.S. Navy in each specific FLC's area of responsibility. NAVSUP FLC in Yokosuka, Japan ("FLC Yokosuka") supports naval installations and vessels operating in Japan, Hong Kong, South Korea, and Russia. FLC Yokosuka also oversees the operations of a Detachment in Singapore ("FLC Singapore"), which supports naval installations and vessels in foreign countries, including

Singapore, Indonesia, the Philippines, Thailand, Cambodia, Vietnam, Australia, and elsewhere.

7. GDMA is a multi-national corporation with headquarters in Singapore and operating locations in other countries, including Japan, Singapore, Thailand, Malaysia, Korea, India, Hong Kong, Indonesia, Australia, Philippines, Sri Lanka and the United States. GDMA is owned and controlled by Leonard FRANCIS, who is the Chief Executive Officer/President of GDMA, and who oversees the daily business and operations of the company. FRANCIS is assisted by a core management team, consisting of persons known to the investigation and identified here by initials: HP, Vice President Worldwide Contracts; NP, Vice President Global Operations; and AW, General Manager Global Government Contracts. GDMA also employs Country Managers for each of its operating locations in foreign countries.

8. GDMA is a commercial and government contractor whose main business involves the “husbanding” of marine vessels, and as such, GDMA is known as a “husbanding service provider” (“HSP”). “Husbanding” involves the coordinating, scheduling, and direct and indirect procurement of items and services required by ships and submarines when they arrive at port. Examples of items and services required by ships and submarines when in port include tugboats, fenders, port authority/custom fees, security, provisions (food), fuel, water, trash removal, collection holding and transfer of liquid waste (“CHT”), transportation, and many others.

9. Many of these items and services are supplied by lower tier subcontractors; however, GDMA does own a vast array of assets, including tug boats; water, trash, and CHT barges; docking equipment; small vessels for patrol (i.e. picket boats); passenger shuttles; security barriers; and other miscellaneous equipment it uses to fulfill husbanding requirements.

10. GDMA has been husbanding vessels for the U.S. Navy for over 25 years. In or

about June 2011, NAVSUP awarded GDMA three regional contracts to provide husbanding services to U.S. ships and submarines at ports throughout Southeast Asia (Region 2), Australia and the Pacific Isles (Region 3), and East Asia (Region 4). The Region 4 contract is managed by FLC Yokosuka, and the Region 2 and Region 3 contracts are managed by FLC Singapore. By way of example, the Region 2 contract was structured as a first year base value of \$25 million, which the U.S. Navy could opt to extend for up to four additional years, for a total base value of \$125 million. Within each region, certain ports are more lucrative to GDMA than others. According to GDMA correspondence which I have reviewed, FRANCIS and GDMA employees referred to these ports as “Pearl Ports.”

11. MISIEWICZ is a Captain-select in the United States Navy, assigned to U.S. Northern Command (NORTHCOM) located at Peterson Air Force Base, Colorado Springs, CO. MISIEWICZ is a public official within the meaning of 18 U.S.C. § 201(a). Prior to this assignment, from approximately June 2010 to January 2011, MISIEWICZ served at the rank of Commander (CDR, O-5) as the Commanding Officer for the USS Mustin, a forward-deployed Destroyer class vessel in the Seventh Fleet, home-ported in Yokosuka, Japan, and later from approximately January 2011 to April 2012, as the Deputy Operations Officer for US Commander Seventh Fleet (“C7F”) aboard the USS Blue Ridge.

12. As the Commanding Officer for the USS Mustin, MISIEWICZ was responsible for supervising 32 officers and 253 crew members and overseeing fleet schedules and operations. MISIEWICZ also had final decisionmaking authority with regard to husbanding service requirements for the ship during a port visit. MISIEWICZ would also have detailed knowledge of his ship’s schedule as well as the schedules of other ships in his Battle Group or Strike Group. U.S. Navy ships commonly travel in groups of two or more, in conjunction with a larger vessel

such as an aircraft carrier, sometimes called a Battle Group or Strike Group.

13. In the scope of his duties as the Deputy Operations Officer, MISIEWICZ was responsible for leading 94 personnel and providing operational control over the deployment of ships, aircraft, submarines, and other maritime forces in the execution of a wide range of military operations in the Seventh Fleet area of operations. The Seventh Fleet's area of operations consists of 48 million square miles extending east from Japan to the west at Diego Garcia, and north from Vladivostok, Russia to the south at Australia. As the Deputy Operations Officer, MISIEWICZ had high-level exposure to the operational planning for ships in the Seventh Fleet and for any U.S. Navy ship traveling through C7F's area of responsibility. MISIEWICZ also wielded influence in determining or modifying the schedule of port visits for U.S. Navy vessels. It was a violation of MISIEWICZ's official and lawful duties to: (a) transmit information that the Navy had classified as "Confidential" to any person not entitled to receive it; and (b) make unauthorized disclosure of proprietary, internal U.S. Navy information.

14. A person known to the investigation, identified here as "EA," is a U.S. citizen currently living in San Diego, CA. EA served as an Officer in the U.S. Navy with his last assignment in 2007 as the Force Protection Officer for the USS Blue Ridge, the flagship for C7F. In 2009, EA was hired by GDMA to be the General Manager for Japan, where he worked until January 2012. As the GDMA Japan General Manger, EA had responsibility over the GDMA husbanding services in Japanese ports, including Tokyo, Hakata, and Osaka.

FACTS ESTABLISHING PROBABLE CAUSE

15. Based on documents I have reviewed, beginning at least as early as May 2010, FRANCIS and EA began targeting MISIEWICZ as someone who might be susceptible to providing favor to GDMA in return for things of value. In a June 2010 email, EA wrote to

FRANCIS: “I took the Captain and XO (XO is [name omitted] from the C7F N7 [training] shop) to dinner last night... He is from Cambodia, has four kids, and is a classmate of [another U.S. Naval officer] from the Naval Academy.” (MISIEWICZ was born in Cambodia, then adopted and raised in the United States. He has four children through his marriage.) EA told FRANCIS that MISIEWICZ was likely being assigned to the C7F staff and wrote: “So, we are changing faces, but keeping our lines of communications with C7F.”

16. On November 7, 2010, MISIEWICZ sent an email to EA from his personal email account, “Thanks [EA], no attachment? BTW [by the way], let me know the dates in Dec[ember] for Lion King, [Misiewicz’s wife] sounded interested when I mentioned it. Take care, Mike.” The investigation has confirmed that MISIEWICZ and four members of his family attended the Lion King in Tokyo with EA. At the time, MISIEWICZ was still the Commanding Officer of the USS Mustin, but had already learned that he would be going to C7F in January 2011.

17. Thereafter, EA was invited to MISIEWICZ’s change of command ceremony as a personal guest of MISIEWICZ. On December 27, 2010, MISIEWICZ communicated with his staff from the USS Mustin via email regarding the list of invitees, including, “Additions to CO’s Personal List:... Mr. and Mrs. [EA] General Manager Glen Defense Marine Nippon, The Glen Building, 1-1 Ohdaki-cho, Yokosuka, Japan 238-0008.”

18. In March of 2011, FRANCIS exchanged multiple emails with a woman associated with a prostitution service (referred to here as “the Escort Service Provider”). Based on the content of emails between FRANCIS and the Escort Service Provider, including many pictures of young women along with their age, height, and bra size, I understand that FRANCIS was arranging for the services of prostitutes. One of the women, referred to here by her first initial,

“N,” became the subject of an email chain. On March 3, 2011, FRANCIS sent an email to the Escort Service Provider, saying “14-18 [March, first name of another Navy Commander] at Singapore, N.” The Escort Service Provider responded asking FRANCIS if he only wanted N, and FRANCIS replied that he wanted four girls for three to four days. The Escort Service Provider wrote back saying “Dear, for [the other Navy Commander and] friend yah? ALL ur friends for Sunday are western or mix ??” FRANCIS replied: “Yes [other Navy Commander], Cambodia American and White 2”. Based on documents I have reviewed, “Cambodia American” referred to MISIEWICZ, who planned to travel with at least one other Navy Commander for this trip. According to email traffic, the Escort Service Provider agreed to provide the services, but due to a tsunami in Japan, that trip to Singapore did not take place.

19. In May 23, 2011, FRANCIS and EA had a discussion about MISIEWICZ and their perception of his performance concerning GDMA. FRANCIS wrote: “Moving forward how is Mike [MISIEWICZ] doing and looking long range ...” EA replied: “... talked to Mike Wednesday about PKCC [Port Klang, Malaysia] for JCS [USS John C. Stennis], he asked where else, since the regionals are up in the air I told him to lock in PKCC and we will get back to him for additional guidance.” FRANCIS wrote, “Mike has to be hungry and proactive and protect GDMA’s interest. We gotta get him hooked on something?” EA replied that he knew MISIEWICZ liked Japanese women but they were costly, and suggested that FRANCIS “fly him to Bangkok next time you are there...May take him to Tokyo when the ship gets back...”

20. MISIEWICZ traveled to Cambodia in June 2011. After his return, on July 4, 2011, using his personal account, mustfive89@gmail.com, MISIEWICZ wrote to both FRANCIS and EA, copying FRANCIS’s personal email account for the first time: “Leonard/[EA], made it to ship/staff. 6,000+ emails and messages in my inbox on high side

[classified computer]! You were right on JCS [USS John C. Stennis] change. Manila then PKCC [Port Klang Cruise Center, Malaysia]. Thailand out due to proximity of GWA [USS George Washington] pvst [port visit]. Makes sense...Not much going on from what I heard. Take care gents, thank you for the best leave (w/o kids that is) ever! w/r Mike.” I understand that the leave and gratitude mentioned by MISIEWICZ concerned the trip to Cambodia in June 2011.

21. In reply to this email, FRANCIS asked MISIEWICZ for more information on port visits and asked that MISIEWICZ direct ships to his preferred ports, such as Phuket, Thailand, and away from less lucrative ports like Singapore. Also on July 4, 2011, MISIEWICZ sent FRANCIS and EA an email subject titled, “da’ plan.” The email read, “As requested...,” and included ship movement schedules for the USS George Washington Carrier Strike Group, and other ships from August 6 to September 6, 2011. The email ended with MISIEWICZ writing, “MKI [USS Makin Island] too early to tell...” In a continuing series of emails to FRANCIS, MISIEWICZ provided other ships’ schedules as well.

22. After the final email in this string from MISIEWICZ containing planned U.S. Navy ship visits, EA wrote to FRANCIS: “We got him!!:).” FRANCIS replied: “You bet the Godfather.” EA replied: “All hail!!!”

23. Based on my training and experience as well as my review of U.S. Navy contracting documents and internal GDMA documents, I believe that advance access to ship schedules was very valuable to FRANCIS in two ways. First, with advance knowledge, FRANCIS could leverage his relationship with MISIEWICZ and other U.S. Navy personnel, by suggesting that the U.S. Navy shift port visits from ports where the U.S. Navy could easily challenge fraudulent costs, such as Singapore, to those lucrative “Pearl Ports” where the U.S.

Navy has much less visibility, such as Port Klang, Malaysia or Laem Chabang, Thailand. Second, this advance knowledge would have allowed FRANCIS to mobilize GDMA's own assets, such as barges or tugboats, to far-away ports to service the U.S. Navy ships. Using its own assets to provide certain husbanding services was cheaper for GDMA than relying on subcontracts with local companies. The investigation has developed information to show that GDMA was overcharging the Navy for these types of services. GDMA would submit fraudulent competitor quotes at higher prices for these services, thus allowing GDMA to win the tender, and then GDMA could minimize its costs and maximize its profit by using its own assets.

24. For example, on August 28, 2011, MISIEWICZ sent FRANCIS and EA an email: "Well, with [the USS John C. Stennis] having to canx [cancel] Manila... we're looking to add a day on front end for PKCC [Port Klang Cruise Center]. See, you ask - - I deliver! LoL!" MISIEWICZ in this email is referring to Port Klang, a lucrative port controlled by FRANCIS. This extension allowed GDMA to charge an extra day's expenses to the ship. From September 4 to September 9, 2011, the USS John C. Stennis visited the Port Klang Cruise Center; the total cost of this visit was over \$1.3 million, or just over \$250,000/day.

25. From this point forward, emails show that MISIEWICZ and FRANCIS enjoyed a close personal relationship, with MISIEWICZ referring to FRANCIS as "Big Brother," "Big Bro," "BB," or, "Bro," and FRANCIS referring to MISIEWICZ as "Little Brother," "Little Bro," or "LB." In December 2011, MISIEWICZ even created a personal email account -- lgflittlebro@gmail.com, derived from FRANCIS's full name, Leonard Glenn Francis, corresponding with the "lgf" portion of the email address -- to communicate specifically with FRANCIS.

26. On November 21, 2011, MISIEWICZ began communicating with FRANCIS about his hope to fly to Cambodia in December 2011 for a relative's wedding. MISIEWICZ requested FRANCIS's assistance in booking flights for himself, his biological mother and brother. MISIEWICZ wrote:

"Leonard, ... My brother asked if I could help get my mom and him to our cousin's wedding on 11Dec in Cambodia (near PP[Phnom Penh]) and also join them. They live in Austin, Texas... Can your agents help in the booking? I haven't seen my Mom since May 2009 so would be neat if I could make this happen for her. My brother said he would pay me back for a portion of the ticket cost and I can give that back to you when I get it and I will work with what I have to pay off any of the remainder."

MISIEWICZ went on to propose a travel itinerary beginning on December 8, 2011, through February 29, 2012. MISIEWICZ also included a separate proposed travel itinerary for five members of his immediate family from December 19, 2011, through December 28, 2011.

27. FRANCIS replied to MISIEWICZ's email with: "Mike, Copy all will work on it right away, V/r Leonard G. Francis." On December 3, 2011, FRANCIS wrote, "Bro, Here you go all 3 tickets sent and GTG [good to go]. My Christmas ho ho. Hope to hear some positive news soon, read flw (following) email from travel agent." The same day, MISIEWICZ replied to FRANCIS, "Thanks Bro, ... Too much on Christmas ho ho, thank you so much bro. Yes, hope I can give you some good news. 50/50 shake on dip[lomatic] clearance for port we don't want. See you on 9th? Will try to work your business plan this weekend. . . . w/r LB." Based on this email exchange, I understand that FRANCIS purchased the airline tickets for MISIEWICZ, his mother, and brother, and that in return, MISIEWICZ agreed that he would exert his influence with the U.S. Navy to "work" FRANCIS's "business plan."

28. Later on December 3, 2011, FRANCIS sent MISIEWICZ an email regarding the U.S. Navy's proposal to change a scheduled port visit of the USS Abraham Lincoln from Laem Chabang, Thailand to Manila, Philippines. Francis stated: "[W]e can't let [that] happen," and also asked MISIEWICZ not to "forget us at PKCC and Phuket [and] Sepangar." Based on my review of FRANCIS's email and U.S. Navy contracting documents, I know that Port Klang (PKCC), Phuket, Laem Chabang, and Sepangar are lucrative "Pearl Ports" for GDMA.

29. MISIEWICZ responded that politics were responsible for the proposed change, but that he was "fighting hard" to maintain the scheduled visit to Laem Chabang. Based on my review of the USS Abraham Lincoln's port schedule, MISIEWICZ was successful. From January 5 - January 10, 2012, the USS Abraham Lincoln visited Laem Chabang. During this port visit, GDMA invoiced the U.S. Navy approximately \$884,000 for husbanding services, of which, according to an analysis by DCAA, over \$500,000 was overbilled.

30. On December 21, 2011, FRANCIS sent MISIEWICZ an email that read, "Bro, Here you go GTG [good to go], look out for a hotel car on arrival in Singapore. V/R, Leonard G. Francis." Attached were the e-tickets for MISIEWICZ from Phnom Penh, Cambodia, to Singapore, an e-ticket for travel from Singapore to Narita Airport in Japan, and "Reservation Confirmation Shangri La Hotel.Doc." Included on the Shangri-La Hotel reservation attachment was confirmation a room was reserved for "Mr. Michael Vannak Misiewicz", checking in on December 21, 2011 and checking out December 25, 2011 in the "1 Tower Wing Horizon Club Deluxe Room... Round trip transfer has been arranged for a Mercedes Benz car."

31. Based on reviews of MISIEWICZ's known credit card and bank account information, agents assigned to this investigation have been unable to locate any record of MISIEWICZ or anyone in his family paying for any portion of this December 2011 travel. Nor

were there withdrawals of cash around the time of the trip that would have been sufficient to reimburse FRANCIS for the trip's costs.

32. Throughout December 2011, FRANCIS and MISIEWICZ exchanged emails regarding ship schedules. On December 7, 2011, MISIEWICZ stated in reference to port visits for "big decks" (referring to aircraft carriers): "I know we have to work PKCC/Sepangar." Of the emails sent by MISIEWICZ on December 7, eight pages were officially classified "Confidential." Transmission of this material to a person not entitled to receive it was in violation of MISIEWICZ's official and lawful duties. On December 31, 2011, FRANCIS emailed MISIEWICZ regarding the schedule of the USS Blue Ridge saying "Bro, Slide a Bali visit in after Jakarta, and Dili Timor Leste after Bali. What happened to Malaysia, Sepangar, or PKCC? HK [Hong Kong] again? Come on Bro you can do better than HK. Press on."

33. On three occasions soon after MISIEWICZ returned from his trip to Cambodia -- January 1, 2012, January 10, 2012, and February 13, 2012 -- MISIEWICZ sent FRANCIS port visit schedules for various U.S. Navy vessels. These ship schedules were officially classified "Confidential," and transmission of this material to a person not entitled to receive it was in violation of MISIEWICZ's official and lawful duties.

34. In response to the ship schedules MISIEWICZ sent on January 10, 2012, just after MISIEWICZ returned from his vacation in Singapore paid for by FRANCIS, FRANCIS wrote: "Bro, Where is the CVN's [aircraft carriers] for PKCC, swing GWCSG [USS George Washington Carrier Strike Group] over to us instead of Singapore? Bali for Blue Ridge?" On the original schedule sent to FRANCIS by MISIEWICZ, the USS George Washington was scheduled to visit Singapore from October 8 to 12, 2012. In fact, the Navy redirected the USS George Washington to Port Klang, Malaysia from October 7 to 11, 2012. The total cost of this

visit to a "Pearl Port" was over \$1.8 million.

35. On April 15, 2012, MISIEWICZ again provided FRANCIS with updated schedules for port visits of various U.S. Navy vessels. According to the Commander, U.S. Seventh Fleet, these ship schedules were officially classified "Confidential," and transmission of this material to a person not entitled to receive it was in violation of MISIEWICZ's official and lawful duties.

36. On April 27, 2012, FRANCIS sent MISIEWICZ e-tickets for MISIEWICZ's brother for air travel from Chicago to Seoul to Phnom Penh, Cambodia, and returning to Austin Texas, where the brother lived, departing on April 28, 2012 and returning May 7, 2012. MISIEWICZ replied to FRANCIS's email attaching the e-tickets: "I got it bro! Thanks so much. I want to give you a big hug, but I'll save it for next time!" Based on reviews of MISIEWICZ's known credit card and bank account information, agents assigned to this investigation have been unable to locate any record of MISIEWICZ or anyone in his family paying for any portion of this travel. Nor were there withdrawals of cash around the time of the trip that would have been sufficient to reimburse FRANCIS for the trip's costs.

37. Thereafter, in a response to an email from FRANCIS, in an email dated May 8, 2012, MISIEWICZ sent FRANCIS a port visit schedule change for the USS John Paul Jones, delaying a visit. On May 17, 2012, FRANCIS sent MISIEWICZ a reservation confirmation at the Shangri-La Hotel Singapore. The reservation was for "Mr. Mikes Mieziejwz," for May 18-20, 2012, in the "Valley Wing Deluxe Suite." According to the reservation, the room was guaranteed with an American Express card ending in X-5002. Based on agents' review of credit bureau and bank account information available in the United States, MISIEWICZ had no credit card ending in X-5002, and there was no evidence of MISIEWICZ paying this hotel bill.

38. On May 18, 2012, MISIEWICZ wrote to FRANCIS about the room at the Shangri-La: “bro, checked in late and slept a few hours before work. thanks much. nice room. given work today and navy league, maybe I should have checked out? i was thinking of using the room til I had to be back by midnight, but maybe better to just check out? what do you think? will you be a[t] navy league? cheers, LB.” According to personnel data I have reviewed, during the dates of this particular hotel stay, MISIEWICZ was on official duty with his command, C7F, which was conducting a port visit in Singapore.

39. While in Singapore, on or around May 19, 2012, MISIEWICZ and FRANCIS exchanged a series of emails about attending a Lady Gaga concert on May 25, 2012 in Thailand while the USS Blue Ridge was visiting Laem Chebang, Thailand, from May 24-29, 2012. In the initial email, MISIEWICZ conveyed to FRANCIS various information from meetings within C7F. MISIEWICZ closed: “Ok bro, it was great seeing you these last two ports, although brief. I will never forget that I broke curfew, you helped buy me PT [physical training] gear and I slithered in the next morning story. Again, please don’t kill me. Should I ask more guys from the office if they want to go to Lady Gaga concert? Thanks! LB.” FRANCIS replied, “I have a few LGa Ga tickets, will confirm tomorrow. . . .” FRANCIS also asked with respect to the need for five concert tickets: “Who are the new players on the team I need to line up the Targets [a term I understand to mean female escorts] and fun house. Don’t chicken out bro we need u with us on the front lines:☺ Who can we trust in the Office for Lady Ga Ga? Tickets are not the issue who will keep silent :) Send me the latest updated schedules Bro I need more visits please in Pearl Ports. Cheers, Leonard G. Francis.” [Emphasis added].

40. MISIEWICZ replied to FRANCIS, pondering, “who might be ‘cool’,” to invite to the Lady Gaga concert. MISIEWICZ continued later in the email: “Sked [schedule] will be sent

via LB acct [lgflittlebro@gmail.com.] Will update this week, but you have latest less may be a few minor changes. So for Lady Gaga tickets, ...make 5 tickets...”

41. On May 27, 2012, MISIEWICZ sent email to FRANCIS thanking him for the concert tickets and expressing how much he and his fellow concertgoers enjoyed it.

MISIEWICZ also wrote “...Looking at skeds. MTF [more to follow]. LB.”

42. FRANCIS and MISIEWICZ continued their correspondence on May 31, 2012, with FRANCIS expressing his disappointment that MISIEWICZ was unable to go out with him in Thailand due to MISIEWICZ’s time spent with relatives and his girlfriend. FRANCIS described the beautiful women FRANCIS provided that MISIEWICZ missed out on. “It’s a Pity you missed my Elite Thai Seal team, you would have loved them par or better than Indons (Indonesians) or PI (Philippine Islands). Well next trip ☺”

43. In early June 2012, FRANCIS contacted MISIEWICZ and requested the latest information for “port visits, Big Decks [aircraft carriers] etc. Standing by for your reply.” MISIEWICZ responded on June 6, 2012, sending FRANCIS another classified, eleven-page updated port visit schedule. Transmission of this material to a person not entitled to receive it was in violation of MISIEWICZ’s official and lawful duties. On June 29, 2012, MISIEWICZ followed up with an updated port visit schedule, along with an after-action report for the USS Makin Island’s recent port visit to Sepangar Bay, Malaysia.

44. In email communications beginning July 2, 2012, MISIEWICZ sent FRANCIS an email entitled, “Itineray [sic] for Singapore-Cambodia Trio, July 2012.” The email, which reads, “BB, Proposed Itinerary as requested,” appeared to be a continuation of a previous discussion not found in any of the available email accounts. MISIEWICZ then provided a bullet point itinerary from July 3 to July 16, 2012. This trip included travel from Japan to Singapore, Singapore to

Cambodia, Cambodia to Malaysia, and Malaysia to Japan for MISIEWICZ as well as his three oldest children. Attached in the email to FRANCIS were color copies of the U.S. passports for MISIEWICZ and his three older children.

45. On July 4, 2012, FRANCIS sent MISIEWICZ an email subject titled, "MISIEWICZ/MICHAEL VANNAK MR 06JUL SIN PNH," wherein FRANCIS wrote, "Bro here are the flight details looks good will issue tomorrow, pls advice, R, Leonard G. Francis." Below FRANCIS's message was an email from "RMG Travel PTE LTD," a travel agency located in Singapore known to be used frequently by FRANCIS, which included confirmed airline reservations for MISIEWICZ and his three children from Singapore to Cambodia, from Cambodia to Malaysia, and from Malaysia to Japan. Interviews with various witnesses have confirmed that MISIEWICZ and his family, in fact, traveled on this itinerary in July 2012.

46. Upon MISIEWICZ's return from his trip, on August 21, 2012, FRANCIS and MISIEWICZ began to strategize on how to schedule a nuclear aircraft carrier ("CVN") to come to port in Sepangar, Malaysia – a lucrative "Pearl Port." MISIEWICZ provided FRANCIS with updates and information from the fleet, while FRANCIS advised MISIEWICZ on whom to engage and what to tell them. For example, on August 23, 2012, FRANCIS wrote, "Bro, I sp[oke] to Datt [Defense Attaché] . . . this morning.... Press hard forward. We have to make this a success. [Datt] will meet the Ambassador today to flw [follow] up with the letter to the Minister. We are just about there and I have done my part and cleared the Msian [Malaysian] hurdles. The ball is in your Court now with Reactors and send the DIPCLIN [Diplomatic Clearance] Asap that will fast forward everything and [the Datt] agrees that a DIPCLIN is the First step and everything else will fall in place. Please work on it and make it happen. Your legacy to open up another CVN [aircraft carrier] port in the AOR [area of responsibility,

referring to the Seventh Fleet]. Help!!!! ☺”.

47. MISIEWICZ replied to FRANCIS, “Working it hard bro...yes good legacy point if we can make it happen?” After FRANCIS sent MISIEWICZ requested information about the anchorage site, MISIEWICZ updated FRANCIS that certain impediments were now cleared and that he felt positive the port visit in Sepangar would happen. MISIEWICZ wrote, “Good teamwork bro, lets take this to finish line!” In continuing the press for the Sepangar port visit, on August 25, 2012, FRANCIS advised MISIEWICZ where and how he wanted MISIEWICZ to manipulate scheduled port visits to FRANCIS’s preferred ports. FRANCIS wrote: “Bro, Hows the going?... The Gridley [USS Gridley] to Mumbai, slide it to Phuket send the Carat [Cooperation Afloat and Readiness Training] Bangladesh ships to Port Blair [India] or Mumbai. Sept is too quiet for ship visits send us some ships early besides Sepangar.” MISIEWICZ replied to this email by attaching an official U.S. Navy email regarding, “Update in Port Visit to Mumbai” addressed to the Commanding Officer of the USS Gridley about specifics of the port. MISIEWICZ wrote to FRANCIS, “Bro, CVN to Sepangar on track, PACFLT [Pacific Fleet] pushed up to PACOM...feel good about it; please see what can be done to assure pierside and a great visit for them yeah, need to look at getting something to Port Blair[.] Sept is just bad month...nothing avail cause exercise, can’t help much GRI [USS Gridley] to Mumbai, dealing with several issues...need your help to understand ground truth....” Despite MISIEWICZ’s efforts to direct the USS Gridley to Mumbai at anchorage, as set forth in numerous emails I have reviewed, the USS Gridley ultimately came to port in Goa, India in September 2012, where it was serviced by GDMA’s competitor.

48. By early September 2012, based on emails I have reviewed, the USS John C. Stennis was scheduled to visit Sepangar, Malaysia. In an email dated September 15, 2012,

Commander Jerry KING, Director for NAVSUP FLC-Singapore, stated to multiple U.S. Navy recipients that NAVSUP had developed three options for supporting this visit. The first option was to support the visit using the Region 2 contract, which King stated had a “[h]igh” “[e]xecution [r]isk and “[p]rice risk.” The second option was a separate award specifically for Sepangar, and the third was to change the location of the port visit. On September 15, 2012, MISIEWICZ responded to all recipients, including CDR King, in clear support of option one, the most costly option and the one previously requested by FRANCIS. Specifically, MISIEWICZ stated: “I don't understand why within a few weeks now, we are posed with 3 [option]s in which none are very satisfying; to include a[n option] that completely ignores HHQ direction. I'm in disbelief.... What is going on between FISC [Fleet Industrial Supply Center, the previous name for FLC] and HSP [the husbanding services provider]?... It seems to me a less adversarial, partnership type relationship with the HSPs is needed...” Regarding opting for a different port location, MISIEWICZ wrote “I have to sit down to even read this option. Are we saying logistics and contracting is going to drive operations and strategic mission?... I don't see this as an option at all.”

49. The nuclear aircraft carrier USS John C. Stennis conducted a port visit to Sepangar in late September 2012. Based on agents' review of pertinent records, GDMA billed the U.S. Navy \$2.7 million for husbanding services during this visit, while according to an analysis by DCAA, in 2011, the average (of two) aircraft carrier port visits at other ports in Malaysia cost the U.S. Navy only \$1.36 million.

50. On September 8, 2012, MISIEWICZ again sent FRANCIS an email containing advanced scheduling information on U.S. Navy ships. This email read, “Sending from new [G]alaxy [N]ote 10.1 bought from [L]imsim [S]quare!” Attached to the email was a plain Word

document, with no classification markings. The document was a list from September 2012 through March 2013 of anticipated port visits, listing the date, the three letter designation for the U.S. Navy vessel, and the location of the port visit. This document was classified “Confidential” at the time of the email. Taking the information from its classified source and placing it onto a non-classified personal electronic digital device (e.g. a Galaxy Note 10.1), and transmitting it to a person not entitled to receive it, was in violation of MISIEWICZ’s official and lawful duties.

51. According to documents I have reviewed, while completing his security clearance updates in May 2012, MISIEWICZ failed to include FRANCIS in his list of foreign national contacts, despite his frequent communications and social outings with FRANCIS. In addition to those contacts chronicled above, a review of MISIEWICZ’s government issued Blackberry call logs revealed MISIEWICZ called FRANCIS’s known Blackberry phone number a total of 60 times from April 7, 2012 through August 18, 2012, although FRANCIS’s name did not appear in MISIEWICZ’s Blackberry’s list of “Contacts.”

52. MISIEWICZ and FRANCIS also took steps to conceal the extent of their relationship, with MISIEWICZ using private email accounts to communicate (including lgflittlebro@gmail.com and mustfive@gmail.com), at least one of which was established primarily to correspond with FRANCIS. In addition, on May 20, 2012, FRANCIS called MISIEWICZ’s attention to an email on which MISIEWICZ had accidentally cc’ed FRANCIS as part of his official U.S. Navy communications. FRANCIS notified MISIEWICZ of the error by writing: “Brother you must have copied me by mistake on your internal emails. I don’t think they noticed. Stay calm we are ok. Just remove me in the next email as my name is clustered with the rest. Be cautious with emails. Take care Bro, BB.”

53. MISIEWICZ replied, “Oh crap. I hate the auto feature on outlook. There’s a [Commander] Leonard here and that is who the email should have gone to. Thanks for the heads up. Now I am worried, there is some spook kind of guys on this email. I can’t believe I did that...” In a follow up email, MISIEWICZ ended the email with, “nothing became of my mistake on email the other day so good to go for now. atb [all the best].”

CONCLUSION

54. Based on the foregoing, I respectfully submit that there is probable cause to believe that LEONARD GLENN FRANCIS and United States Navy Commander MICHAEL VANNAK KHEM MISIEWICZ have engaged in a bribery conspiracy in violation of 18 U.S.C. § 371, by agreeing that FRANCIS would make, and facilitate the making of the payment of things of value, including travel expenses, entertainment, and prostitutes, to MISIEWICZ in return for him violating his official and lawful duties by transmitting classified information to a person not entitled to receive it, and making unauthorized disclosures of proprietary, internal U.S. Navy information, and for him being influenced in the performance of official acts, including recommending where U.S. Navy ships came to port. I therefore request that arrest warrants be issued for FRANCIS and MISIEWICZ.

//
//
//
//
//
//