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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action  
No. 18-10205-DJC

V.

December 16, 2019  
10:00 a.m.

SHUREN QIN,

Defendant.

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TRANSCRIPT OF MOTION HEARING DAY 1  
BEFORE THE HONORABLE DENISE J. CASPER

UNITED STATES DISTRICT COURT  
JOHN J. MOAKLEY U.S. COURTHOUSE  
1 COURTHOUSE WAY  
BOSTON, MA 02210

DEBRA M. JOYCE, RMR, CRR, FCRR  
Official Court Reporter  
John J. Moakley U.S. Courthouse  
1 Courthouse Way, Room 5204  
Boston, MA 02210  
joycedebra@gmail.com

1 APPEARANCES:

2 FOR THE GOVERNMENT:

3 B. STEPHANIE SIEGMANN, ESQ.  
4 JASON A. CASEY, ESQ.  
5 U.S. Attorney's Office  
6 1 Courthouse Way  
7 Suite 9200  
8 Boston, MA 02210  
9 617-748-3191

7 FOR THE DEFENDANT:

8 WILLIAM H. KETTLEWELL, ESQ.  
9 SARA E. SILVA, ESQ.  
10 ELIZABETH CARR PIGNATELLI, ESQ.  
11 Hogan Lovells US LLP  
12 125 High Street  
13 Suite 2010  
14 Boston, MA 02110  
15 617-371-1005

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P R O C E E D I N G S

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(The following proceedings were held in open court before the Honorable Denise J. Casper, United States District Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts, on December 16, 2019.

The defendant, Shuren Qin, is present with counsel. The Assistant U.S. Attorneys are present.)

THE CLERK: Court is in session. Please be seated. Criminal action 18-10205, United States v. Qin.

Would the interpreter please rise?

(Interpreter sworn in by the clerk.)

THE CLERK: Thank you.

Would counsel please state your name for the record.

MS. SIEGMANN: Good morning, your Honor. Stephanie Siegmann for the United States.

THE COURT: Good morning, counsel.

MR. CASEY: Good morning, your Honor. Jason Casey for the United States.

THE COURT: Good morning, counsel.

MR. KETTLEWELL: Good morning, your Honor. William Kettlewell for Mr. Qin, together with my partner, Sara Silva.

THE COURT: Good morning, counsel.

MR. KETTLEWELL: And this is one of our paralegals, Melissa Cieszkowski, your Honor.

1 MS. PIGNATELLI: Elizabeth Pignatelli also for  
2 Mr. Qin.

3 THE DEFENDANT: Good morning, your Honor. I'm Shuren  
4 Qin, the defendant.

5 THE COURT: Good morning.

6 Good morning, sir.

7 Counsel, sir, I know we're here for a suppression  
8 hearing. I've received the filings on either side in this  
9 case.

10:02 10 I do understand this is an evidentiary hearing?

11 MS. SIEGMANN: Yes, your Honor.

12 THE COURT: Counsel, from the government's  
13 perspective, who's being called?

14 MS. SIEGMANN: So we anticipate calling five or six  
15 witnesses, your Honor. We believe that we'll hopefully get  
16 through two today, and then we're ambitiously trying to get  
17 through the rest for tomorrow, but there is a chance that we  
18 will not complete all the witnesses, so we mentioned that to  
19 Ms. Hourihan before you came on the bench.

10:02 20 THE COURT: Okay. So we'll see about scheduling.

21 Other additional witnesses from the defense side, do  
22 you anticipate any?

23 MR. KETTLEWELL: Your Honor, there may be one, but  
24 that would be a very brief witness, but that will depend,  
25 obviously, on the flow of evidence and what comes in.

1 THE COURT: Okay.

2 Counsel, are we ready to proceed?

3 MS. SIEGMANN: We are, and the first witness is in the  
4 courtroom.

5 The government calls Special Agent Brian Andersen.

6 MS. SILVA: Your Honor, before we begin evidence, we  
7 want to sort of very briefly frame the issues for the Court if  
8 that would be helpful.

9 THE COURT: Counsel, if you'd like to, briefly, if  
10:03 10 Mr. Andersen will wait for a moment.

11 MS. SILVA: Thank you, your Honor.

12 Your Honor, we're aware that the Court does not need a  
13 lengthy exegesis on border search authority. We have read the  
14 Court's opinion in Alasaad and understand and respect the  
15 decision that at a minimum a border search of electronic  
16 devices requires reasonable suspicion that the device contains  
17 contraband.

18 But the government is defending this search here on  
19 the basis of it being a routine border search, and we submit,  
10:03 20 your Honor, that the government is not going to be able to  
21 carry that burden of proof for the simple fact that the search  
22 at issue here was not a border search. It was conducted as  
23 part of an evidence gathering mission pursuant to a  
24 long-standing, ongoing criminal investigation of Mr. Qin.

25 The evidence is going to show that that investigation

1 had been taking place for more than seven months before the  
2 putative border search at issue here. And that despite two  
3 undercover meetings and multiple communications between Mr. Qin  
4 and the case agent, the first witness you'll be hearing from  
5 today, Agent Andersen, the government had not probable cause or  
6 reasonable suspicion at the time that they seized Mr. Qin's  
7 laptop computer and iPhone.

8 You'll hear, your Honor, that the government learned  
9 months before Mr. Qin left the country to go to China that he  
10:04 10 was going. He, in fact, told the government on June 30th that  
11 he was planning to go to China in October, and he did, in fact,  
12 do that.

13 While he was gone, Agent Andersen reached out to  
14 Customs and Boarder Protection agents and directed them to stop  
15 Mr. Qin on his way back and to detain his electronics. And  
16 Customs and Boarder Protection did exactly that on November 24,  
17 2017.

18 THE COURT: Counsel, I promise I'll give you a full  
19 opportunity for closing, but I have read the papers, so I'll  
10:05 20 give you 30 seconds more. I'll give the government a few  
21 minutes if they'd like to make some opening remarks, but I'd  
22 like to get started with our witnesses given the calendar  
23 that's been presented.

24 MS. SILVA: Appreciate that, your Honor.

25 Just very briefly then, we understand that the

1 government has since that search attempted to justify this  
2 search on the grounds of reasonable suspicion that contraband  
3 was evident in the device.

4 With regard to reasonable suspicion, your Honor, we  
5 suggest that the official government reports that documented  
6 the reasons for the search at the time are highly relevant to  
7 credibility as to the government's new position that reasonable  
8 suspicion existed at the time this was recorded as a routine  
9 border search for merchandise or evidence of merchandise.

10:06 10 THE COURT: Understood.

11 MS. SILVA: On the piece of contraband, your Honor,  
12 the government has suggested this was a search for technical  
13 data. Technical data is a term of art. It is defined in the  
14 International Traffic and Arms Regulations, it's ITAR  
15 controlled. Technical data is listed on the U.S. Munitions  
16 List. You will hear, your Honor, that there was never any  
17 contraband found on Mr. Qin's devices and there was certainly  
18 never any United States Munitions List items.

19 Thank you, your Honor.

10:06 20 THE COURT: Counsel, do you want to say a few words?

21 MS. SIEGMANN: Yes.

22 THE COURT: And I should say I'm cognizant of the fact  
23 that the parties' filing on either side came ahead of my  
24 decision in Alasaad, so, counsel, I'll hear closing arguments  
25 after I've heard all of the evidence, but I understand if

1 either side wanted to supplement their papers at some point, I  
2 can hear from either side about that.

3 MS. SIEGMANN: Your Honor, just if I could have two  
4 minutes.

5 THE COURT: Sure.

6 MS. SIEGMANN: I wasn't planning to do a -- frame the  
7 issues, but in response to the defense.

8 First of all, the government stands on its papers. We  
9 understand your Honor's decision in the civil matter, but we do  
10:07 10 believe that -- and especially in light of this may go up on  
11 appeal on either side, the issue is for a border search the  
12 government believes that no suspicion is required to do a  
13 routine border search, and that this was a routine border  
14 search.

15 At some point if the Court finds that it was a  
16 non-routine border search, there was clearly reasonable  
17 suspicion. I believe, as suggested in the search warrant  
18 materials, there also was probable cause. They had identified  
19 at least three violations of the Export Administration  
10:07 20 Regulations prior to the border search occurring. The  
21 defendant then proceeded to make a false statement at the  
22 border before the search of the electronic devices. So there  
23 was numerous violations of federal law that the -- they had  
24 probable cause to investigate.

25 Additionally, because no decision at the time the



1 border search, which was November of 2017, had -- Cano hadn't  
2 been decided, nor had your decision, your Honor. They had  
3 good-faith basis to rely on the existing case law that did not  
4 require or limit border searches to just looking for  
5 contraband.

6 Having said that, they were looking for contraband  
7 being tech data, and they were investigating ongoing export  
8 violations. Tech data is not limited to ITAR, by the way, it's  
9 actually -- technical data is controlled both under the  
10:08 10 Commerce Control List as well as the United States Munitions  
11 List, and basically it is the designs, the specifications, the  
12 blueprints regarding control technology.

13 And during the secondary inspection when Mr. Qin was  
14 at the border, he actually showed diagrams on his computer to  
15 the CPB officer. And so there was actually reasonable  
16 suspicion to suggest that there would be other technical type  
17 information on his laptop computer. And technical data, as you  
18 will hear, is something that is of concern because it's so easy  
19 to transfer and export, your Honor.

10:09 20 But that really -- and of course we'll argue later,  
21 but just to respond to the arguments of the defense this  
22 morning.

23 THE COURT: Thank you.

24 And with that, I think we can have Mr. Andersen take  
25 the stand, sir.

1 THOMAS BRIAN ANDERSEN, JR., having been duly sworn by  
2 the Clerk, was examined and testified as follows:

3 THE COURT: Good morning, sir.

4 THE WITNESS: Good morning, your Honor.

5 THE COURT: Counsel.

6 MS. SIEGMANN: Thank you, your Honor.

7 DIRECT EXAMINATION

8 BY MS. SIEGMANN:

9 Q. Can you state your name for the record, spelling your last  
10:10 10 name, after you get your water.

11 A. Sure, thank you.

12 This is a really different perspective. I'm used to  
13 testifying over there.

14 My name is Thomas Brian Andersen, Jr. Andersen is  
15 spelled A-n-d-e-r-s-e-n.

16 THE COURT: Thank you.

17 BY MS. SIEGMANN:

18 Q. How are you employed?

19 A. I'm a special agent with the U.S. Department of Homeland  
10:10 20 Security. I'm currently assigned to Homeland Security  
21 Investigations, Boston Field Office.

22 Q. How long have you worked as a special agent for Homeland  
23 Security Investigations?

24 A. In February it will be 14 years.

25 Q. And you said you're assigned to the Boston office?

1 A. That's correct.

2 Q. Have you always been assigned to the Boston office?

3 A. I have.

4 Q. Can you please describe for the Court the positions or  
5 work assignments you've had over the last 14 years?

6 A. Sure. When I first arrived at the Boston Field Office, I  
7 was assigned to the HSI National Security Group, and that group  
8 fundamentally focused on two types of investigations, national  
9 security threats and human rights violators and war criminals.

10:11 10 In the early days of my assignments in this office, I found  
11 myself doing human rights violator investigations, so  
12 investigation of those who are suspected of committing  
13 genocide, war crimes, and torture. I've done a number of those  
14 cases, prosecutions, in this district and others.

15 That group also supplied agents to the Joint  
16 Terrorism Task Force, so there was a time while still assigned  
17 to that group that I was posted at the FBI's JTTF, Joint  
18 Terrorism Task Force. And I think maybe 2010 or 2011 I was  
19 given a long-term acting supervisor assignment, so I was  
10:11 20 brought back from the JTTF still in the National Security  
21 Group.

22 In 2013 or so, I was assigned to the HSI Boston  
23 Counterproliferation Investigations Group, that's the group  
24 that I'm currently assigned to now.

25 Q. So what types of offenses does your -- the group you are

1 assigned to now, Counterproliferation Investigations Group,  
2 investigate?

3 A. Fundamentally we investigate cases that involve the  
4 unlawful export of U.S. origin goods to other destinations  
5 around the world. Typically the commodities that we're  
6 investigating require a license for export, either a license  
7 issued by the Department of Commerce or one issued by the  
8 Department of State if it's an item that's controlled on the  
9 United States Munitions List.

10:12 10 There are other things that may not be controlled by  
11 license but can't go to embargoed countries, so occasionally we  
12 do investigations in that area as well.

13 Q. And have you received any training in the area of illegal  
14 exports and counterproliferation?

15 A. I have.

16 Q. Can you please describe the training you received to the  
17 Judge.

18 A. So that was the variety of training seminars. Certainly  
19 in our six-month basic academy counterproliferation  
10:13 20 investigations are -- receive some degree of focus because of  
21 the programmatic area that our agency works in.

22 I then received specific training,  
23 counterproliferation investigations offered by our agency at  
24 the Federal Law Enforcement Training Center.

25 I went back to an advanced school also conducted by

1 our agency, counterproliferation investigations. And I've been  
2 to a number of undercover-focused classes. So conducting  
3 undercover investigations in the counterproliferations field  
4 and using some of the techniques that are available to us  
5 through an undercover platform.

6 Q. And during the trainings that you've received was there  
7 any focus on any countries of concern or national security  
8 threats?

9 A. Sure. Those are almost always part of the discussion. In  
10:14 10 addition to those classes that I outlined, I have attended a  
11 number of seminars conducted by the Department of Defense or  
12 members of the intelligence community, and those classes in  
13 particular have a tendency to focus on specific threats,  
14 specific technology. So countries that are of concern that  
15 almost always rise to the top include China, Russia, North  
16 Korea, Iran, Syria; and a number of embargoed countries, Sudan,  
17 for example, gets a lot of press, occasionally their effort to  
18 get munitions, products, really. They're focused more on  
19 weapons, that are a weapon.

10:15 20 Q. Were you involved in the investigation of Shuren Qin and  
21 his company, LinkOcean Technologies Limited?

22 A. I was.

23 Q. When did you first get involved in this investigation?

24 A. I think May of 2017, sometime in the month of May 2017.

25 Q. What was your role in the investigation at that time?

1 A. I think when I initially heard about it, I didn't have a  
2 defined role. I think one of my colleagues was working on the  
3 case, and, as we typically do, we have a small group of people,  
4 we typically talk to each other, we know what everybody is  
5 working on. So I think I just heard about it in those early  
6 days.

7 Eventually, I was asked to participate in the  
8 investigation and to manage the undercover communication  
9 between an undercover platform and Shuren Qin.

10:16 10 Q. Did your role in the investigation at some point change  
11 from that of being undercover agent to a different role?

12 A. Yes. Eventually I was tasked with taking over the case  
13 and became what's known as the case agent.

14 Q. When approximately did that occur?

15 A. I think August of 2017.

16 Q. And just to give some background to the Court, were any  
17 other agencies involved in the investigation of Qin and  
18 LinkOcean?

19 A. Yeah, these cases typically are investigated in a  
10:16 20 collaborative fashion. So at the time agencies that were  
21 included in this investigation were the Department of Commerce;  
22 Naval Criminal Investigative Service; the Defense Criminal  
23 Investigative Service; I think CPB, Customs and Boarder  
24 Protection. I think that's who was involved at the outset.

25 Q. And was that the same group of agencies that were involved

1 in November 2017 when the border search occurred?

2 A. Yes.

3 Q. Now, let's discuss in more detail what you did in this  
4 investigation.

5 Can you describe to the Judge what you do as an  
6 undercover agent?

7 A. Well, the specific focus that I would undertake as an  
8 undercover agent would be to facilitate communication with a  
9 prospective buyer. We typically deal with resellers, people  
10:17 10 who are making an effort to buy a product in the United States  
11 and have an end user in mind, a place where that product is  
12 going to go, and then have to navigate purchasing a product in  
13 the U.S. and then getting it to the person who's ultimately  
14 going to use it.

15 So as an undercover, my role typically is to work  
16 with the U.S. manufacturer, perhaps transition the potential  
17 buyer from the U.S. manufacturer in a communication, whether  
18 it's e-mail or phone, transition them to some other platform,  
19 and then eventually communicate, whether it's in person, over  
10:18 20 the phone, through e-mail, text messaging, et cetera, with a  
21 potential subject who wants to purchase a commodity. And --  
22 that's typically what I do as an undercover.

23 Q. And prior to drafting any undercover communications to a  
24 target, do you do any preparation or research?

25 A. Sure. I've been in law enforcement for 20 years, but I

1 don't know much about a lot of the commodities that are  
2 controlled both by the State Department or the Department of  
3 Commerce. So one of the things that we have to do initially is  
4 try to get an understanding of what's the product, what does it  
5 do, what are its capabilities, what are the controls, how can  
6 you -- how can one expand those controls. So if you bought  
7 certain widget, could you do anything to that widget to make it  
8 more capable, more operational, would that change the  
9 perspective of controllability; if it could do more, would that  
10:19 10 trigger license requirements by the State Department or by the  
11 DOC, Department of Commerce. So to figure that out, you  
12 typically have to talk to the people who are manufacturing  
13 those products.

14 Q. And did you do that in this case?

15 A. I did.

16 Q. And before we talk about that, you mentioned a few  
17 seconds -- 30 seconds ago that you've been in law enforcement  
18 for 20 years, you were in HSI for 14 of those years, what did  
19 you do prior to that?

10:20 20 A. So immediately prior I was an undercover detective with  
21 the Vermont State Police working with the Southern Vermont  
22 Joint Task Force. That's the job I held immediately before I  
23 came on with HSI, and had been a uniformed police officer and  
24 detective in the years preceding that for about six years  
25 before I came on the job with HSI.



1 Q. Now, so in doing your background investigation or research  
2 prior to engaging in conversations with the defendant, what  
3 were you told about Qin and his company, LinkOcean?

4 A. So I was told -- it was my understanding that -- so when I  
5 was first apprised of the investigation, I understood that Qin  
6 was in the United States, that he represented a company that  
7 existed in China, LinkOcean Technologies, and I guess at the  
8 outset I wasn't clear like what was his presence, what was his  
9 lawful presence in the United States. That's something that we  
10:21 10 eventually came to understand. And I knew that he was  
11 interested in acquiring vehicles used in the marine setting.  
12 So there are different types of vehicles, some are towed, some  
13 can operate without human interaction, plot a course, throw it  
14 in the water, does its thing, comes back, you retrieve it; and  
15 then there are others that are literally controlled  
16 essentially, like, by a joy stick, remotely operated vehicle.  
17 So Qin was trying to acquire different vehicles kind of  
18 throughout that spectrum and had contacted a number of  
19 Massachusetts-based manufacturers of those goods.

10:21 20 Q. You mentioned towed, and you mean like towed, t-o-w-e-d?

21 A. I do.

22 Q. And can you explain to the Judge what you mean by "towed"?

23 A. A vehicle that has some sort of sensing capability that is  
24 tethered to another vessel. So it's released, it gathers data,  
25 and then can be retrieved by cable.

1 Q. So -- and Special Agent Andersen, what is your  
2 understanding as to how Qin came to the attention of the  
3 investigators?

4 A. So Qin, as I understand it, contacted a number of  
5 manufacturers, including a company called Riptide. Riptide had  
6 some interaction with Qin, and, as a result of that  
7 interaction, made a report to the Defense Security Service. I  
8 think Riptide is a cleared defense contractor, which means that  
9 they are allowed to keep classified materials onsite, and they  
10:23 10 use those classified materials to produce goods that are used  
11 by the military typically. The rules about that, about the  
12 cleared defense contractor and who's allowed access to that  
13 information, how that information is stored, those are things  
14 that are all monitored by the Defense Security Service. And  
15 one of the regulations that cleared defense contractors have is  
16 they have to report what they view to be suspicious contact,  
17 and they report that to the Defense Security Service. Defense  
18 Security Service produces a report and typically sends that to  
19 the law investigative agencies, many of the ones that I named  
10:23 20 earlier who were initially involved in this investigation. So  
21 that's my understanding of how HSI came to learn of Qin and  
22 LinkOcean.

23 Q. So it's your understanding that Riptide had suspicions  
24 about Mr. Qin?

25 A. Yeah, I -- *de facto* because they reported it to DSS. You

1 don't make reports to DSS if you don't have concerns.

2 Q. And based your role in this investigation, did you ever  
3 talk to Riptide --

4 THE COURT: I'm trying to follow all of the acronyms,  
5 and I know DSS is referring to what --

6 THE WITNESS: I'm sorry, your Honor, Defense Security  
7 Service.

8 THE COURT: Thank you.

9 BY MS. SIEGMANN:

10:24 10 Q. Based upon your role in the investigation, did you ever  
11 talk to Riptide about their concerns about Mr. Qin?

12 A. Yes, I did.

13 Q. And we're going to talk about that in a few minutes, but  
14 prior to conducting the border search in November 2017, how  
15 many times did you talk to Riptide?

16 A. I don't know the exact number. I talked to them a number  
17 of times. I just don't know the exact number. It could have  
18 been six, could have been ten, maybe more than that.

19 Q. Does Riptide still exist?

10:25 20 A. They do exist. I think they have been bought. They have  
21 been bought out by a larger company. I think BAE bought  
22 Riptide.

23 Q. Now, you mentioned briefly that Riptide is a CDC, a  
24 cleared defense contractor. Can you describe to the Judge what  
25 types of items they manufacture?

1 A. I'm not sure I know their entire product line, but the  
2 product line that I'm aware of is they produce a line of  
3 autonomous underwater vehicles. An autonomous underwater  
4 vehicle is a vehicle that can be placed into the water and can  
5 be operated without a person being in the vehicle. And Riptide  
6 produces micro versions up to, you know, substantial, like  
7 torpedo-size vehicles. And they all have various  
8 instrumentation, things that make them drive and then can take  
9 on certain payload, what you want the vehicle to be able to do,  
10:26 10 then it takes on a certain payload to be able to perform  
11 whatever that desired action is. So Riptide at least produces  
12 those. They may produce others things.

13 Q. And to whom does it sell these types of products to?

14 A. I don't know the definitive customer list. I know that  
15 the U.S. Navy, for example, is a substantial customer of  
16 Riptide's and purchases a variety of those autonomous  
17 underwater vehicles.

18 Q. So with that background, you indicated you spoke to  
19 Riptide on numerous occasions. And based upon your discussions  
10:27 20 with them why was it -- are you aware why it is that they sent  
21 the initial contact or reported Qin to DSS, Defense Security  
22 Service?

23 MR. KETTLEWELL: Objection, your Honor. What they  
24 said, not what his reasoning is as to why they did something.

25 THE COURT: Counsel?

1 MS. SIEGMANN: The case agent is on the witness stand,  
2 and it's his reasonable suspicion that is actually at issue in  
3 this hearing, and so, therefore, it's his understanding that's  
4 actually the most important of all the witnesses we're going to  
5 hear today.

6 THE COURT: I'll allow it on that basis.

7 Counsel.

8 A. So, just to be clear, could you ask me the question again?

9 Q. Yes. So when you first talked to Riptide, what was your  
10:28 10 understanding as to why they reported Qin to the authorities,  
11 the investigators?

12 A. Okay. So my understanding at the time was that there had  
13 been a series of conversations between Qin and Riptide about a  
14 particular vehicle. As a result of that interaction, Riptide  
15 submitted a commodity classification to the Department of  
16 Commerce about the particular vehicle that Qin was interested  
17 in purchasing. That vehicle -- the commodity classification  
18 came back from the Department of Commerce, I think it was  
19 8A001, which would have a variety of controls for export,  
10:28 20 including national security. China is noted on the country  
21 chart as national security 2. So there's a national security  
22 reason why a license would be required for that particular  
23 product.

24 My understanding at the time was that what Qin  
25 described was kind of a traditional researcher

1 oceanographer-type interest, but the vehicle that was quoted  
2 would trend away from a typical research application and more  
3 towards a military application. So that's where the commerce  
4 regulations apply, things that have a civilian use but also  
5 have a military use.

6 And so my understanding is that Riptide did not  
7 necessarily believe Qin's claim about the specific end use of  
8 the product that he was seeking. And then, when it came back  
9 with the national security classification, the 8A001, or  
10:30 10 controlled for national security reasons, instead of talking  
11 with Qin further, they just made a report to the Defense  
12 Security Service.

13 Q. Did Riptide provide any documents to the investigators?

14 A. They did. They provided their e-mail, their e-mail  
15 exchanges with Qin. I think Riptide also provided a copy of  
16 the commodity classification.

17 MS. SIEGMANN: May I approach, your Honor?

18 THE COURT: You may.

19 MS. SIEGMANN: I'm handing the witness what has been  
10:30 20 marked Exhibit 1.

21 THE COURT: Counsel, I'd just note for the record I  
22 have this binder on the bench up here. Do these correspond to  
23 what the government is planning to offer?

24 MS. SIEGMANN: Yes, your Honor. That binder is all of  
25 the government's exhibits.

1 BY MS. SIEGMANN:

2 Q. Special Agent Andersen, do you recognize Exhibit 1?

3 A. I do.

4 Q. What is it?

5 A. It appears to be e-mail communications, copies of e-mails  
6 between Qin and Riptide.

7 MS. SIEGMANN: The government moves to admit Exhibit  
8 1, your Honor.

9 THE COURT: Any objection, Exhibit 1?

10:31 10 MR. KETTLEWELL: No objection, your Honor.

11 THE COURT: They may be admitted as Exhibit 1.

12 (Exhibit 1 received into evidence.)

13 MS. SIEGMANN: Can we use -- can we have it on the  
14 computer for everyone?

15 THE COURT: You may.

16 (Discussion off the record.)

17 MS. SIEGMANN: There it is, thank you.

18 So if we could, can we turn to page 2?

19 Can we zoom in on that so we can all see it?

10:32 20 BY MS. SIEGMANN:

21 Q. So, Special Agent Andersen, is this one of the first  
22 e-mail -- the earlier of the e-mails that was provided by  
23 Riptide to the government?

24 A. As far as I know, that's correct.

25 Q. And is it dated August 28, 2016?

1 A. Yes.

2 Q. And it reads the names --

3 MS. SIEGMANN: The individuals at Riptide have been  
4 redacted, your Honor, for the purpose of this hearing.

5 Q. Is that your understanding, that the individual names have  
6 been redacted from the exhibits here?

7 A. Yes.

8 Q. So it says Dear (an employee),

9 How are you? I am Shuren from LinkOcean Technologies  
10:32 10 in China. I am interested in your micro-UUV and want to sell  
11 to Chinese customers. LinkOcean is the distributor of 24  
12 oceanographic instruments makers.

13 I am in Boston this week, can I visit your office and  
14 have a talk with you?

15 Did I read that portion of the e-mail correctly?

16 A. Yes, you did.

17 Q. Can you tell her Honor what "micro-UUV" stands for?

18 A. Micro-UUV is -- I think is a term that they use. I'm not  
19 sure -- I think other companies use that as well. The  
10:33 20 micro-UUV, the underwater vehicle, micro is the smallest  
21 version that they produce.

22 Q. And what does "UUV" stand for?

23 A. Underwater vehicle.

24 Q. Underwater unmanned vehicle?

25 A. Sorry, underwater unmanned vehicle.



1 Q. Can you explain the difference -- you said earlier you  
2 were talking about autonomous underwater vehicles, is that AUV?

3 A. That's AUV, a subset of the UUV.

4 Q. And what's the -- is there a difference between UUVs and  
5 AUVs?

6 A. So a UUV could be an AUV, an autonomous underwater  
7 vehicle. It could also be an ROV, a remotely operated vehicle.  
8 So UUV is kind of the broader umbrella; and then AUV,  
9 autonomous underwater vehicle, that's a vehicle that can  
10:34 10 operate without a person being in it, without it being tethered  
11 to some other vehicle. It's not attached to a cord like a  
12 remotely operated vehicle. If you think about the movie  
13 "Titanic," they go down in a vehicle that's tethered, right,  
14 and so that would be an example of an ROV. So UUV is the broad  
15 category, AUV is a subset of that. No person inside of it, not  
16 attached to something else.

17 Q. And are you aware as to when it said "your micro-UUV," who  
18 Riptide was developing this micro-UUV for?

19 A. I don't know if they developed it for the United States  
10:35 20 Navy, but they certainly sold some to the United States Navy if  
21 that answers your question.

22 MS. SIEGMANN: Now, turning now to the first page,  
23 Mr. Bruemmer.

24 In the middle there, the e-mail, starting "from"?

25 Q. And then there's an e-mail on the first page that's dated

1 April 19, 2017. Do you see that projected on the screen for  
2 you?

3 A. I do.

4 Q. And that one reads, Dear (employee),

5 How are you? I'm glad to hear that you have teamed  
6 with Kraken Sonar to integrate AquaPix MINSAS on Riptide's new  
7 2-man portable UUV platform. It is great news. LinkOcean is  
8 representing Kraken in China and I have several leads for AUV  
9 with MINSAS, but the AUV is not allowed to export to China. I  
10:36 10 am in Boston now, can we have a talk?

11 Did I read that portion of the e-mail correctly?

12 A. Yes.

13 Q. Now, Special Agent Andersen, did you read these e-mails  
14 before conducting any e-mail communications with the defendant  
15 in the undercover capacity?

16 A. Yes.

17 Q. And what, if anything, was significant to you about these  
18 e-mails?

19 A. That he identified himself as the owner of a Chinese  
10:36 20 business, that he had some -- that it was his intention to get  
21 these vehicles to China, and one of the things that I took away  
22 is that he had some understanding of export regulations in the  
23 United States because he says that he understands that in  
24 particular, the e-mail that you just read, he highlights the  
25 fact that it could not be exported to China. I think -- to me

1 that implied that he had some understanding of -- that that  
2 product was controlled in some way.

3 Q. And by the time this April 19, 2017 e-mail was sent to  
4 Riptide, had the commodity classification been obtained?

5 A. Yes, I think so. It was closer in time to the original  
6 e-mail as opposed to this follow-up one.

7 Q. Okay. Did you review any other materials prior  
8 communicating with Qin in any undercover capacity, any reports?

9 A. I did. As I said earlier, there were a number of other  
10:37 10 investigative agencies that have been involved in this  
11 investigation with us, and there was a meeting that had taken  
12 place between Qin and a personnel who worked for Riptide, and  
13 NCIS I think had created a report documenting what took place  
14 at that meeting.

15 MS. SIEGMANN: May I approach, your Honor?

16 THE COURT: You may.

17 MS. SIEGMANN: I'm handing the witness what has been  
18 marked as Exhibit 2.

19 BY MS. SIEGMANN:

10:38 20 Q. Do you recognize that report, Special Agent Andersen?

21 A. I do.

22 Q. What is it?

23 A. It is an investigative report that was produced by a  
24 special agent assigned to the Naval Criminal Investigative  
25 Service.

1 Q. Was she working on this case with you?

2 A. She was, yes.

3 MS. SIEGMANN: Your Honor, the government moves to  
4 admit Exhibit 2.

5 THE COURT: Any objection?

6 MR. KETTLEWELL: No objection.

7 (Exhibit 2 received into evidence.)

8 BY MS. SIEGMANN:

9 Q. You mentioned before this was a report that was  
10:39 10 summarizing a meeting; is that right?

11 A. Yeah, that's right. Qin requested a meeting with Riptide,  
12 and --

13 MS. SIEGMANN: Can we bring up the exhibit?

14 Q. It says, "Results of Initial Meeting With Shuren Qin." Is  
15 that the title of the report?

16 A. Yes.

17 Q. And can you summarize -- or strike that.

18 Was there anything contained in this report that you  
19 found important to your investigation?

10:39 20 A. So there were a couple of things. I think -- I'm trying  
21 to find --

22 Q. Page 2.

23 A. Yes. So the thing that stood out to me the most --

24 MS. SIEGMANN: Highlight paragraph 4.

25 A. -- was that Qin suggested to Riptide that he could open a

1 U.S.-based company and that Riptide could sell vehicles to him  
2 in the United States, basically creating a domestic sell, and  
3 that Qin would take on the responsibility of getting the  
4 product from the United States to China. And that is something  
5 that stood out to me immediately.

6 Q. Why is that?

7 A. Well, that's a very common proliferation tactic. The  
8 export laws that U.S. manufacturers are obligated to enforce  
9 and to ensure that they're not violating, they don't apply to  
10:40 10 domestic sales unless the manufacturer were to know that that  
11 product was going to be exported. So if you create a  
12 U.S.-based company and you go to Riptide and say, Hey, my  
13 U.S.-based company X, Y, Z wants to buy these vehicles, if you  
14 didn't tell Riptide anything about them going to China, then  
15 they could just do the domestic sale and then the proliferation  
16 agent would take care of getting it out of the country. And  
17 typically that's done in a way that we refer to as smuggling.  
18 They find a way, contrary to law, to get it out of the United  
19 States. So -- and it's a tactic that is applied across the  
10:41 20 broad spectrum of our investigations. So that he suggested it  
21 in his very first meeting with Riptide was noteworthy to me.

22 Q. Just so the Court understands, so this was in the context  
23 of a meeting with Riptide where there was an agent who was  
24 posing as an employee of Riptide, so acting in an undercover  
25 capacity?

1 A. That's correct.

2 Q. And this is a report documenting that meeting?

3 A. That's right.

4 Q. The meeting wasn't recorded?

5 A. Not to my knowledge, no.

6 Q. So in addition to the suggestion, was there anything --  
7 anything in addition to that that was of concern to you?

8 A. Yes, so -- there was. I think consistent with what I was  
9 talking about earlier, that the description of who he was  
10:42 10 trying to buy this for, researcher or oceanographer, was  
11 inconsistent with the capabilities that he was requesting. And  
12 obviously Riptide folks have a lot more experience in that  
13 realm.

14 One of the things that Qin talked about in the  
15 meeting was the ability to gather data in real time. This  
16 stood out to Riptide, and it stood out to me as well when I was  
17 talking to them about that particular request, because a  
18 typical research vessel is programmed, thrown into the water,  
19 runs a mission, zigzag or whatever, whatever is programmed --  
10:43 20 collects data, water samples, temperature readings, also  
21 whatever it's programmed to do -- the vessel comes back, it's  
22 retrieved, the data is downloaded and then analyzed by the  
23 researcher. Small vehicles, low cost.

24 Qin's request that the vehicle be able to communicate  
25 the data that it's collecting in real time and so that humans

1 on another vessel could see what data was being collected,  
2 according to Riptide that was inconsistent with what his  
3 described end use was, and that trended for Riptide folks to be  
4 that's a military mission, that the gathering of data and the  
5 transmission of that data in real time is one that military use  
6 would be indicative. So that stood out as well.

7 Q. Was there any discussion about the Chinese military during  
8 the course of this undercover meeting?

9 A. Yes. So in this, one of the things that -- I guess Qin  
10:44 10 made a comment about when discussing the ability to communicate  
11 the data in real time, Riptide described that, the use of  
12 Iridium in order to achieve that result, and Qin responded  
13 something to the effect of, Yeah, Chinese Navy doesn't want to  
14 do that, Iridium is not secure.

15 My implication when reading -- the implication that I  
16 took when reading it was that he may have revealed that in fact  
17 the Chinese Navy was the customer of this vehicle that he was  
18 talking to them about.

19 Q. First of all, can you tell the Court what Iridium -- I  
10:45 20 don't know if I said it right -- is?

21 A. No, I can't.

22 Q. Okay. Can you also -- looking at this paragraph that's  
23 highlighted on the screen here, there was -- did Mr. Qin  
24 discuss who his customers were during this meeting?

25 A. He did.

1 Q. And does it read, Qin stated his customers were mostly  
2 researchers and that he also sold to the Chinese Navy?

3 A. That is what he said.

4 Q. So during the first meeting with Qin, is that something  
5 that he disclosed?

6 A. It is.

7 Q. During the course of this meeting did he also indicate  
8 that he contacted U.S. companies?

9 A. He did. He indicated that he had contacted several.

10:45 10 Q. And what was the purpose for him in contacting, that he  
11 disclosed during this meeting, contacting those U.S. companies?

12 A. My understanding was he was contacting those companies in  
13 an effort to purchase autonomous underwater vehicles.

14 Q. And what was the response he received from the U.S.  
15 companies?

16 A. That they would not sell him any.

17 Q. So based upon your entire reading of this report -- or  
18 what was the significance in total of all these statements that  
19 you saw in this report to your investigation?

10:46 20 A. I think if I had to synthesize it down to one thing, I  
21 read this report and after my conversations with Riptide, I  
22 believed that his customer was the Chinese Navy, that he was  
23 looking to purchase vehicles that could be a prototype of a  
24 system or were going to be put into use by the Chinese Navy.

25 Q. Did that raise any national security concerns for you?



1 A. At this time there was a substantial ongoing dispute  
2 between the United States and China about the South China Sea,  
3 and that I was substantially concerned about the application of  
4 this technology in that disputed space that could potentially  
5 be used against our war fighters, and my review of this report  
6 heightened that concern.

7 Q. Did you review any other materials about Qin's company  
8 prior to engaging in undercover communications?

9 A. Yes. I looked at his website, that was -- I would say  
10:47 10 that was kind of the principal piece of information that I  
11 accessed to learn more about LinkOcean.

12 MS. SIEGMANN: May I approach, your Honor?

13 THE COURT: You may.

14 MS. SIEGMANN: I'm handing the witness what has been  
15 marked Exhibit 3.

16 BY MS. SIEGMANN:

17 Q. Special Agent Andersen, do you recognize that document I  
18 just handed you?

19 A. I do.

10:47 20 Q. What is it?

21 A. It looks like a printout from pages associated with  
22 LinkOcean Technologies in China.

23 Q. Now --

24 MS. SIEGMANN: Your Honor, the government moves to  
25 admit Exhibit 3.

1 THE COURT: Any objection?

2 MR. KETTLEWELL: No objection, your Honor.

3 (Exhibit 3 received into evidence.)

4 BY MS. SIEGMANN:

5 Q. Prior to discussing that document, did you personally  
6 review the contents of LinkOcean's website on your own  
7 computer?

8 A. I believe I did. I reviewed --

9 THE COURT: It may be published if you wish.

10:48 10 A. Yes, I think I saw it on my own and I saw it on others.

11 MS. SIEGMANN: Can you bring up Exhibit 3?

12 Q. So did you make this screenshot yourself of the website?

13 A. No, I did not.

14 Q. Do you know who made it?

15 A. I believe this was made by Special Agent Ed Hayden, the  
16 Department of Commerce.

17 Q. And with the exception of the fact that this is black and  
18 white, does it appear to be identical or the content appear to  
19 be identical to what you saw when you did your own searches?

10:49 20 A. Yes, I would agree with that.

21 Q. All right. Let's walk through the website.

22 MS. SIEGMANN: If you can highlight the first -- thank  
23 you, Mr. Bruemmer.

24 Q. So this screenshot is three pages; is that correct?

25 A. Yes, that's correct.

1 Q. This is the English version, right?

2 A. That's correct. He had a Chinese version; this was the  
3 English version.

4 Q. And it indicates your link to the oceanographic and  
5 hydrological markets in China, correct?

6 A. Yes.

7 Q. And then it indicates that LinkOcean Technologies was  
8 founded in August 2005.

9 A. That's correct.

10:49 10 Q. In Qingdao by Shuren Qin.

11 A. Yes.

12 Q. Based on that, were you aware this was Mr. Qin's company?

13 A. That was my understanding. That was my understanding  
14 prior to reviewing this, I guess this helped to cement that.

15 Q. And then it indicates that LinkOcean represents 24  
16 companies; is that correct?

17 A. Yes.

18 Q. And on the list of companies, were there U.S. companies  
19 that he claimed to represent?

10:50 20 A. Yes, there were.

21 MS. SIEGMANN: Can you turn to the next page,  
22 Mr. Bruemmer?

23 Q. And was there anything that you found interesting on this  
24 page of the website?

25 A. Yes. So, in particular, one of the things -- in the

1 investigation of proliferation networks, particularly with a  
2 focus on China, we have a tendency to focus on research  
3 institutes because of the way in which the Chinese military  
4 uses research institutes in China to conduct kind of  
5 foundational research for weapons or weapons systems that  
6 they're going to employ in the field. So we always have an eye  
7 towards what's the relationship between an individual and  
8 research institutes in China. And so I just noted that he did  
9 business with research institutes in China.

10:51 10 Q. And based upon the defendant's website, were all of  
11 LinkOcean's customers located in the People's Republic of  
12 China?

13 A. Yeah. So that was the other thing, is that although he  
14 was purchasing commodities effectively around the globe, he  
15 didn't have customers other than those in China, at least as  
16 far as we could tell at this point.

17 Q. Did the website list -- you mentioned research institute,  
18 did the website list LinkOcean's customers?

19 A. They did. It did.

10:51 20 Q. And did you review that list?

21 A. I did.

22 Q. And in addition, you mentioned research institutes. Was  
23 there anything -- any other customers that raised concerns to  
24 you?

25 MS. SIEGMANN: Turn to page 3, please.

1 A. Well, on page 3, at least in this version of his website,  
2 he identified the China Navy as one of his customers.

3 Q. Is that what you're referring to, number 47, China Navy?

4 A. Yes, 47.

5 Q. I'm sorry, you said on this version of the website. What  
6 do you mean by that?

7 A. At sometime after the border search, he or someone at his  
8 direction modified the website and I think took out China Navy.

9 Q. Now, why were you concerned whether -- I'm sorry, did you  
10:52 10 say you were concerned about the China Navy being a customer?

11 A. Of course. The technology that he was expressing an  
12 interest in purchasing it, at least what we knew about at the  
13 time, required a license for export to China. It was unlikely  
14 that he would have gotten one.

15 Just as an example, if he had identified the Chinese  
16 Navy or a research institute that was doing work on behalf of  
17 the Chinese Navy, if he had identified them as an end user,  
18 it's unlikely that he would have been able to get a license for  
19 that particular product. And so if I harken back to some of  
10:53 20 the things that he talked about with Riptide, for example,  
21 about creating a domestic company, you can sell it to me here,  
22 I'll take care of getting it to China, things of that nature,  
23 and then to see that he himself identified the Chinese Navy as  
24 one of his customers, yeah, I was -- I was obviously concerned  
25 that he was procuring commodities that ultimately would be used

1 against our naval forces we'll just say in the South China Sea.

2 Q. Are you familiar with the arms embargo against China?

3 A. Yes.

4 Q. What does that mean, that the United States has an arms  
5 embargo against China?

6 A. Well, as I think implied in the title, in particular  
7 munitions goods cannot go to China. Dual-use goods are  
8 reviewed. Because of the concern about the use of certain  
9 goods by the Chinese military, we have to review the product,  
10:54 10 the end user, the person that's actually going to put it into  
11 play, and the country, obviously in this case we're talking  
12 about China. So the country of ultimate destination. Like we  
13 take a very close look at things that have a military  
14 capability going to China in part because of the arms embargo.

15 Q. So when you saw item number 47, China Navy, as one of the  
16 defendant's customers, what did you interpret that to mean?

17 A. I guess at the time I interpreted it to mean that he sold  
18 products directly to the Chinese Navy, because he's putting it  
19 on his website, I'm selling to the Chinese Navy as a customer.

10:55 20 So that's what I took it to mean, I'm working on behalf of  
21 them.

22 Q. Now, and when you -- do you have any experience with  
23 the -- personal experience with the military?

24 A. Yes. I served as a United States Marine.

25 Q. So when you saw the term "Navy," what does that imply to

1 you? Is it just ships, is it submarines, is it both? What did  
2 you interpret that to mean?

3 MR. KETTLEWELL: Objection to the leading, your Honor.

4 THE COURT: Well, counsel, you can ask another  
5 question; you can rephrase.

6 BY MS. SIEGMANN:

7 Q. How broad of an interpretation did you infer from the  
8 China Navy reference here?

9 A. I think my initial understanding was as it related to the  
10:56 10 technology that he was looking at, so given the fact that he  
11 was looking for an underwater vehicle, I took that to mean that  
12 we were talking about naval subsurface fleets, sonar nets, the  
13 ability to detect the movement, anti-submarine warfare, mine  
14 countermeasures. So I really was thinking about it in kind of  
15 a submarine aspect. And then I think there are lots of  
16 different -- for lack of a better term, there are a lot of jobs  
17 in that environment. So, as I said, anti-submarine warfare  
18 being one, mine countermeasures, intelligence surveillance  
19 reconnaissance, ISR job, so that's where I thought that his  
10:57 20 customer found themselves, he was buying on behalf of Chinese  
21 naval forces that were focused on that effort.

22 Q. Now, I'm going to move on to beyond the website now.

23 THE COURT: Just so I understand on the licensing  
24 piece of it. I think you said that a license would have been  
25 required for the purchase and it likely would have been denied

1 if the end user were the China Navy. Does that mean there's  
2 some possibility of a license being received if it was for a  
3 research institute in China or no? Do you understand my point?

4 THE WITNESS: Yeah, I think that's right, your Honor.  
5 That if Qin had identified a research institute and after  
6 vetting the Department of Commerce believed who Qin claimed the  
7 end user was going to be research institute X, then the  
8 Department of Commerce, if the capabilities of the vehicle  
9 required, the Department of Commerce could issue a license for  
10 its export to that destination, that specific entity in that  
11 place. But as I talked about earlier, because of the arms  
12 embargo, the regulating agencies take a very close look at  
13 anything that may be used by the Chinese military, and I'm not  
14 a licensing officer, but working in these investigations, we  
15 have a tendency to know if Qin had said specifically, I want to  
16 buy this vehicle and I'm going to ship it to Chinese subsurface  
17 naval force X, can I have a license, he would not have been  
18 able to get a license for that, that would not have been  
19 allowed.

10:59 20 THE COURT: Thank you.

21 BY MS. SIEGMANN:

22 Q. And to follow up, so Special Agent Andersen, based on your  
23 experience and training, what is the relationship between  
24 research institutes and the Chinese military?

25 A. Right, so the research institutes are an important part of



1 the Chinese military. The research institutes receive  
2 substantial funding from the Chinese military. So if you talk  
3 about the People's Liberation Army and the People's Liberation  
4 Army Naval Force, they get a lot of money, the research  
5 institutions do, from the military. From my training and  
6 experience, a lot of the systems that the Chinese military  
7 develops are developed through research institutes, and then  
8 once they have the technology down, once they can produce it in  
9 sufficient quantity, it moves to whatever their fleet force is.

11:00 10 Q. And when you just said "research institutes," you were  
11 specifically referring to Chinese research institutes, correct?

12 A. Yes.

13 Q. And why is there an effort by the Chinese military and  
14 research institutes to acquire dual-use technologies from the  
15 United States?

16 A. Because they can't get the stuff that's controlled on the  
17 United States Munitions List, they can't get things that are in  
18 and of themselves munitions items, they're embargoed. So they  
19 target items that have a dual use and make those purchases and  
11:00 20 try to incorporate them in a system that serves their purposes.  
21 So they can't buy the munitions good, they have to buy  
22 something and -- my terminology -- tune it up to get it to  
23 perform in a battle theater, for example.

24 Q. Did you -- in addition to reviewing the website and the  
25 e-mails and the reports, did you talk to any non-governmental

1 entities prior to starting communications with Mr. Qin?

2 A. I did, yes.

3 Q. Who did you talk to?

4 A. We went to -- we went and spoke with other -- so we spoke  
5 with the folks at Riptide, and then to get a -- I guess a  
6 broader handle on the technology, we went to two U.S.

7 manufacturers actually down in Fall River, Mass. L3

8 OceanServer, it used to be OceanServer, then L3, big defense

9 manufacturer bought out OceanServer. So L3 OceanServer we went

11:01 10 to, and then we went to Xylem, they were located in the same  
11 building. They work -- it's like a research facility on the  
12 water down in Fall River.

13 Q. Why did you contact them?

14 A. They appeared to produce a similar line of products as  
15 Riptide, so I think it's good -- instead of focusing just on  
16 what Riptide told us, I think it's helpful if I get other  
17 perspectives. So we went and spoke to those -- the folks at  
18 OceanServer and at Xylem as well.

19 Q. Based upon those conversations did you learn anything that  
11:02 20 was significant to your investigation?

21 A. Yeah, so a couple of things. They, too, were producing  
22 similar vehicles on behalf of the U.S. Navy. The U.S. Navy is  
23 a big customer for folks in that marketplace. They -- I'm  
24 talking about both companies, OceanServer and Xylem, produced  
25 kind of the full range of vehicles so that went from little or

1 no control through commerce control, and then they had ones  
2 that were controlled under the ITAR, U.S. munition-type items.  
3 Both companies had those. And I think in talking to both  
4 companies we learned that, in fact, Qin had been in contact  
5 with them and had been asking about autonomous underwater  
6 vehicles, and they declined to sell him any. They were not  
7 interested in selling to the China market, and, in particular,  
8 they wouldn't sell any to Qin.

9 Q. Now, you mentioned that you were the undercover agent on  
11:03 10 this investigation. How long did the undercover investigation  
11 last?

12 A. Not that long, a couple of months. I think sometime in  
13 May until sometime early or mid-July.

14 Q. How did you communicate with the defendant?

15 A. Through e-mail.

16 Q. I want to review some of those communications with you.

17 MS. SIEGMANN: Your Honor, may I approach the witness?

18 THE COURT: And just so I'm clear and I'm not assuming  
19 I shouldn't, when you refer to the undercover, you mean  
11:04 20 something that did not include the naval undercover.

21 THE WITNESS: Yes, that's correct, your Honor. I  
22 wasn't involved in that initial meeting.

23 THE COURT: Thank you.

24 MS. SIEGMANN: May I approach, your Honor?

25 THE COURT: You may.

1 MS. SIEGMANN: I'm going to hand the witness exhibits  
2 4 through 7.

3 Q. Do you recognize those exhibits, Special Agent Andersen?

4 A. Yes, I do.

5 Q. What are they?

6 A. So these are some of the e-mail communications that I had  
7 with Qin on behalf of an undercover company.

8 Q. And just --

9 MS. SIEGMANN: Your Honor, may I move to admit Exhibit  
11:05 10 4 through 7?

11 THE COURT: Any objection?

12 MR. KETTLEWELL: Just checking one thing, your Honor.

13 THE COURT: Sure.

14 (Pause.)

15 MR. KETTLEWELL: No, your Honor.

16 THE COURT: They may be admitted, 4 through 7, and  
17 published if you wish.

18 (Exhibits 4, 5, 6, 7 received into evidence.)

19 BY MS. SIEGMANN:

11:05 20 Q. And before talking about those communications, I just want  
21 to follow up on one of the Judge's questions.

22 So, Special Agent Andersen, did you ever meet in  
23 person with the defendant?

24 A. No, I didn't.

25 Q. So that initial meeting occurred in April 2017?

1 A. I don't remember the date. I know that I got involved --  
2 it's probably written on the document that you gave me, but  
3 that sounds correct. I wasn't involved in that, and I never  
4 met with Qin face to face until the day that we arrested him.

5 Q. And these were e-mail communications that you were in  
6 charge of writing?

7 A. That's correct.

8 MS. SIEGMANN: Let's pull up Exhibit 4, please,  
9 Mr. Bruemmer.

11:06 10 Q. So this is -- was this one of your first e-mails with  
11 Mr. Qin or around that time that you started communicating with  
12 him?

13 A. Yes, I believe that's correct. It was around that time.

14 Q. And are these e-mails in Exhibit 4 that reflect -- that  
15 occurred on or about June 1, 2017?

16 A. Yes.

17 Q. If you could summarize for the Judge what occurred in  
18 these two e-mails from -- one from Mr. Qin and one from you.

19 A. Qin asked a series of questions about the vehicle that he  
11:07 20 had been talking to Riptide about. I guess we -- we asked  
21 Riptide to transition him to an undercover platform so that we  
22 could take over the communication with him, and so these are  
23 some of the exchanges that we had in, I think, the early days.

24 And Qin asked a series of questions about the  
25 particular vehicle, and then he gets the answers that I

1 provided to him after I consulted with Riptide.

2 Q. I want to follow-up on that.

3 So he would ask a set of questions of you. Were they  
4 of a technical nature?

5 A. Yeah, I would say that they were, yes.

6 Q. So how did you -- in all your e-mail communications with  
7 Mr. Qin, how did you respond to those technical questions?

8 A. Typically I would pick up and call one of a couple -- I  
9 think by this time I was talking to a specific Riptide  
11:08 10 employee, and I would ask, you know, here's the question he  
11 asked, how do I respond to that? You know, obviously I'm not  
12 an expert in this technology, I don't manufacture it, I don't  
13 sell it, so I would talk to Riptide and ask them how should I  
14 respond.

15 Q. In this e-mail -- if we can highlight the first paragraph  
16 on top.

17 Do you see that paragraph?

18 A. Yes.

19 Q. And, Special Agent Andersen, did Mr. Qin identify his  
11:08 20 customer in this e-mail to you?

21 A. He did.

22 Q. And how did he identify his customer?

23 A. Customer is a marine ecologist, not a developer.

24 Q. Did you -- based upon your communications with Riptide,  
25 did you believe that to be true?

1 A. Neither I nor Riptide believed that to be true.

2 Q. Why not?

3 A. Well, we were -- consistent with what he had said earlier,  
4 asking for specifications that denoted a more capable use or  
5 end use, and I guess, in particular, with the paragraph you  
6 highlighted here, he was focusing on Wi-Fi communication with  
7 the vehicle. And Riptide's view of that was, again, in a  
8 typical research-based application, the use of Wi-Fi would not  
9 be an application that a normal researcher would ask for or  
10 would want to pay for.

11:09

11 Q. And with regards to the communications, did you see  
12 whether he continued to identify himself as the president of  
13 LinkOcean?

14 A. I did, I did note that.

15 Q. Moving to Exhibit 5.

16 MS. SIEGMANN: Can I just have one second, your Honor?

17 THE COURT: Yes.

18 (Discussion off the record.)

19 BY MS. SIEGMANN:

11:10

20 Q. All right. So, Exhibit 5, can you describe this set of  
21 e-mail communications that occurred, is it on or about June 9,  
22 2017?

23 A. Yes. So I think the bottom part of Exhibit 5 is an e-mail  
24 response that I sent to him providing answers to questions that  
25 he asked, and then his response at the top.

1 MS. SIEGMANN: Can you highlight that on top?

2 A. I'm sorry?

3 Q. I'm going to highlight the top so you can read it easier.

4 And this was Mr. Qin's response?

5 A. Yes.

6 Q. Now, in the top there, is there any reference to any  
7 particular part?

8 A. So here he's specifically talking about the Riptide UUV.

9 So we're talking about that vehicle, a Riptide vehicle, it's  
10 still an autonomous vehicle. Here the UUV is still the big  
11 umbrella, but we were always talking about the unmanned  
12 vehicle, non-tethered, able to do its mission on its own.

13 Q. And that was the one that you indicated earlier had a  
14 commodity classification had been conducted for it?

15 A. Yeah, that Riptide had done based on specifications that  
16 he had submitted to them.

17 THE COURT: Not to be dense here, so I'm not assuming  
18 something that's incorrect. When you said you had the company  
19 move you over to another platform, is your undercover capacity  
11:12 20 as some employee of Riptide?

21 THE WITNESS: So, in this case, that was not correct.  
22 We -- Riptide provided information to Mr. Qin about their lack  
23 of desire to want to do business with him, and then suggested  
24 that there was another company that they were familiar with who  
25 he could speak with.



1 THE COURT: Okay. Thank you.

2 BY MS. SIEGMANN:

3 Q. So, Special Agent, we have the discussions continuing on  
4 the Riptide UUV. Let's continue onto Exhibit 6.

5 And if we could highlight the first paragraph on that  
6 page.

7 Special Agent Andersen, do you recognize these e-mail  
8 communications?

9 A. I do.

11:13 10 Q. And these were dated in July of 2017?

11 A. That's correct.

12 Q. And I want to direct your attention to the middle of the  
13 paragraph there.

14 Does it read, Could you contact Xylem for the quote  
15 for one units of old EcoMapper 32 or the new i3XO EcoMapper?  
16 The requirements are attached. Please do not tell Xylem your  
17 end user is in China, you could tell them your customer is in  
18 U.S.

19 Did I read that correctly?

11:13 20 A. You did.

21 Q. Did that raise any concern for you?

22 A. It did.

23 Q. Why was that?

24 A. Well, in particular, the last part of that line. So  
25 having spoken to the folks at Xylem, I understood that this

1 particular product would be controlled for export to China.  
2 And the implication to me was that Qin knew the same thing,  
3 which is why he said that, I, in the capacity of the company  
4 that I was representing, should not tell Xylem that the end  
5 user is in China. It -- to me that seemed like a very clear  
6 indication that either he understood it wouldn't get a license  
7 or that we should avoid the license process altogether.

8 Q. Had you talked to Xylem -- you indicated that you had  
9 prior to these undercover communications.

11:14 10 A. Yeah, that's right. So we had spoken to them earlier in  
11 that spring, and then in response to this e-mail we spoke with  
12 them again about this particular product.

13 Q. And what did you learn from Xylem about this product?

14 A. That this product would be controlled for export to China  
15 and they wouldn't export it; they wouldn't engage in the effort  
16 to try to export it to China.

17 Q. With regards to -- and going further down in this e-mail  
18 to the last line -- well, I'm sorry, let's go through the whole  
19 thing.

11:15 20 My customer wants to buy some other products, if you  
21 could provide the quote and make sure you could export to  
22 China, it would be great.

23 And then he cites to two sonobuoys. Do you see that?

24 A. Yes, I do.

25 Q. Can you tell the Judge what a sonobuoy is?

1 A. A sonobuoy is a tube, your Honor, that is deployed in a  
2 marine environment. It sends out a signal to detect movement,  
3 sound, objects in the water around it, and then has the  
4 ability, when it identifies something, a submarine, just say  
5 for example, then it transmits a signal. And a sonobuoy is  
6 strictly a military item that is controlled under the United  
7 States Munitions List and only has a military purpose.

8 Q. So did this inquiry for sonobuoys raise any concerns for  
9 you?

11:16 10 A. It sure did.

11 Q. Why is that?

12 A. Well, he's identified a number of research institutes in  
13 China who he's working on behalf of; he's identified the  
14 Chinese Navy as a customer. He has offered to open a U.S.  
15 business so that Riptide would be willing to send him a vehicle  
16 that required a license for export to China, and has already --  
17 has told me in the same e-mail when asking for a quote on a  
18 Xylem product not to tell Xylem that the end user is in China.  
19 And then, we're talking about the Xylem quote, the customer who  
11:17 20 wants that vehicle, and he says "my customer." I obviously  
21 assume it's the same customer that we're talking about, that  
22 there hasn't been another customer. Then requests military  
23 sonobuoys. And then Qin directs me exactly where he wants me  
24 to get the quote from, and sonobuoys@ultra-ms.com, Ultra is  
25 actually Ultra Electronics, a leading manufacturer of defense

1 technology.

2 Q. Did you talk to Ultra Electronics about this inquiry?

3 A. I did. So Ultra has an office in the Commonwealth of  
4 Massachusetts. They don't manufacture here, so I contacted  
5 somebody here in Massachusetts, they put me in touch with one  
6 of the folks at a manufacturing facility in the Midwest, and we  
7 specifically talked about these particular items.

8 Q. And what did you learn from Ultra Electronics?

9 A. So fundamentally I learned that they're controlled under  
10 the United States Munitions List; they only have a military  
11 purpose. One of the ones that he asked me to quote actually  
12 was no longer in production, it was an older model, and if I  
13 wanted to get any of those, I had to order a substantial  
14 number.

15 And when I was closing my conversation with them, I  
16 said to the guy out in the Midwest, I said, Does it mean  
17 anything to you if the person who's asked me to quote these is  
18 also asking me to quote autonomous underwater vehicles? And  
19 the employee who I was speaking with was surprised to hear  
11:19 20 that, was actually shocked, and then asked if the person who I  
21 was quoting on behalf of was Chinese. And I said he was. And  
22 he said that Ultra was trying to produce an autonomous vehicle  
23 that worked as part of a system involving the use of sonobuoys.  
24 Traditional deployment of a sonobuoy is it's dropped in the  
25 water and then you have to pass an aircraft or some other

1 vehicle overhead to gather the signal. So the ability to  
2 deploy a sonobuoy and receive signals in an underwater capacity  
3 increases the stealth of that mission, that it could be done in  
4 a way that is largely undetected.

5 So Ultra Electronics told me that they were working on  
6 a system that involved autonomous vehicles and sonobuoys and  
7 the collection of data from sonobuoys and the transmission in  
8 the battle space. So he was concerned that a subject from  
9 China was asking for quotes of those individual parts because  
10 they viewed them -- they were trying to build a system that  
11 incorporated both.

12 Q. And that was for a military --

13 A. Sorry, Ultra Electronics, when they were talking to me  
14 about that, they were strictly talking about the military  
15 battle space, and their consumer would be, you know, U.S.  
16 military, Canadian military, UK, things of that nature.

17 Q. So turning now to Exhibit 7.

18 Can you describe what --

19 MS. SIEGMANN: That's great, Mr. Bruemmer. Zoom it  
11:21 20 in, please.

21 Q. Can you describe to the Judge what transpired in these  
22 e-mails dated July 17th and July 18th of 2017?

23 A. So in the top portion of the e-mail, that's an e-mail from  
24 Qin to me through the undercover company in which he basically  
25 says that he's, you know, effectively out on the Riptide

1 vehicle and wants to focus on the EcoMapper, and that his  
2 customer is in agreement for the same thing.

3 Q. And so there's some more communications regarding the  
4 EcoMapper in this e-mail chain, correct?

5 A. That's right.

6 Q. Did Mr. Qin end up purchasing a sonobuoy from your  
7 undercover platform?

8 A. No, he didn't.

9 Q. Did he place any orders with you?

11:22 10 A. No, ultimately, he did not.

11 Q. Okay. So did the -- how did the communications end?

12 A. I don't -- I don't remember exactly, but I'm not sure if  
13 this is the last e-mail, but my sense is that this is one of  
14 the last. I think we got to a point where there just wasn't  
15 anymore follow-up.

16 Q. With regards to -- I'd just like to summarize your  
17 undercover -- just the e-mail communications, because you  
18 weren't part of -- you were not the person who met him in  
19 person?

11:23 20 A. I did not, no.

21 Q. Was there an in-person meeting during the course of these  
22 e-mail communications?

23 A. There was.

24 Q. So with regards to just the e-mail communications,  
25 however, so during the course of those, did Mr. Qin talk to you

1 about the performance requirements he wanted for various parts?

2 A. I would say that was underpinning most of our  
3 communication. The technical questions that we talked about  
4 earlier, those typically related to capability and performance.  
5 Based on my conversations with manufacturers, there was a  
6 constant balance, size of the vehicle, propulsion of the  
7 vehicle, payload capacity, electronics, navigation systems. If  
8 you add it here, you might have to take away there or you had  
9 to go up in vehicle size. So the back and forth with Qin was  
10 largely related to capability, adding to the confined space of  
11 the vehicle itself.

12 Q. Going back to Exhibit 4, which was the e-mail in which he  
13 described his customer as being a marine ecologist, do you see  
14 that?

15 A. Yes.

16 Q. Did you believe that to be true?

17 A. Initially I would say that question was somewhat open  
18 ended. You take it on its face that this is who he says he's  
19 buying on behalf of. But, as I said, my conversations with  
20 Riptide at the time -- and as far as I understood, this is the  
21 only customer that we were ever talking about. I think there  
22 is another -- there was -- I don't know if it's one of these  
23 e-mails, but -- in which I'm clarifying with him about are we  
24 talking about the same customer or someone different, and he  
25 says -- I'm paraphrasing -- but we're talking about the same

1 customer. So I always understood that we were talking about  
2 one customer.

3 So by the time we get to the question about, hey, my  
4 customer would like you to quote these sonobuoys, there's no  
5 way that I believe at that point that the customer that he's  
6 talking about is a marine ecologist.

7 Q. So by the time these communications with Mr. Qin end, who  
8 did you believe that he was procuring parts for?

9 A. I believe that he was procuring parts on behalf of the  
10 Chinese Navy.

11 Q. And did you believe there was a single customer?

12 A. No, I don't know enough about how the Chinese Navy is  
13 organized, but I didn't believe that there would be an  
14 individual customer as much as, you know, for example, if he  
15 was buying these on behalf of a research institute, part of the  
16 way the proliferation networks work is that they try to make  
17 purchases through a number of different venues to mask the  
18 total number of a particular product that they're looking to  
19 get. So while Qin could have been talking to me, he just as  
20 easily could have been talking to somebody else trying to get  
21 the same parts in a different manner. We see that consistently  
22 in our investigations.

23 Q. And just to clarify then, so did you during the course of  
24 your communications see inconsistencies between what the  
25 defendant said his end use or end user was and what the



1 applications of these parts were?

2 A. Sure, I did.

3 Q. And what significance did that have going into the end of  
4 the summer of 2017 for you?

5 A. For me the significance was that given the large volume of  
6 communication, the ongoing effort that Qin was making by  
7 talking to U.S. manufacturers about this particular type of  
8 vehicle, an autonomous underwater vehicle, because he didn't  
9 just talk to Riptide, he talked to a lot of different  
11:27 10 companies, I was substantially concerned by the end of the  
11 summer that the Chinese were working on a system that would  
12 incorporate an autonomous underwater vehicle and somehow use it  
13 in conjunction with sonobuoys in a military battle space that  
14 would put our people at risk. That's a real national security  
15 threat, and it's one that I believed he was working to satisfy  
16 on behalf of the Chinese. That's what I thought, that's what I  
17 was concerned about.

18 Q. Okay. So -- and following up on that, in the summer of  
19 2017, what, if any, criminal violations did you and your  
11:28 20 co-case agents from the other agencies suspect Qin of  
21 committing?

22 A. By then -- so, at some point, I don't remember exactly  
23 when, but at some point during this period of time we reviewed  
24 all of the records concerning exports conducted or in which  
25 LinkOcean and/or Shuren Qin was involved. And so we go to the

1 Automated Export System, we refer to it as AES, and we went and  
2 looked at AES records pertaining to exports that Qin or  
3 LinkOcean was a party to. And I don't remember the exact  
4 number, it was more than 20, it might have been more than 30,  
5 I'm not exactly sure. But in reviewing all of those records,  
6 LinkOcean had been identified as the ultimate consignee in  
7 every one. I think there were two exceptions. They were  
8 identified as the ultimate consignee, but in two they were also  
9 identified as an intermediate consignee.

11:29 10 So by review of the AES records, it was clear that he  
11 was not disclosing, at least to the U.S. government, who the  
12 true end user, what the real use of those products that he  
13 purchased, what that use was going to be, who was actually  
14 going to put that product into play.

15 Q. Okay. So, just generally and then we'll going into more  
16 detail about the AES records, but in the summer of 2017, you  
17 suspected the defendant of committing -- was it more than the  
18 Export Administration Regulation violations? Was there  
19 anything else you suspected that he might be committing?

11:30 20 A. Well, so -- yeah. He was requesting things that were  
21 controlled under the U.S. Munitions List, so was there an Arms  
22 Export Control Act violation? We didn't know, but we certainly  
23 suspected that there could be. Were there violations of the  
24 Export Administration Regulations? Yes, we believed that was  
25 possible. To be honest, at that point I think I had reviewed

1 his A-file and the review of records in AES seemed to suggest  
2 or contradict statements that he made in connection with his  
3 visa application. So that was an area that we were thinking  
4 about at that time. Violations, you know, like 18 USC 1546,  
5 visa fraud, making a false statement on a form. That form was  
6 taken under oath, that was the potential to be a perjury  
7 violation. So there were additional violations that we were  
8 considering.

9 Q. Was there any charges in relation to the fact that he was  
10 working for the Chinese government?

11 A. Right. So one of the areas that we look at, I think with  
12 most proliferators, particularly those who we know are --  
13 potentially are acting on behalf of a foreign power, we look at  
14 whether or not, for example, he registered as an agent of a  
15 foreign government and was he acting on China's behalf,  
16 specifically receiving direction from them. So that was  
17 another area that we were looking at.

18 Q. You mentioned a few minutes ago AES, is that the Automated  
19 Export System?

11:31 20 A. Yes.

21 Q. And what types of records -- I'm sorry, and you reviewed  
22 records in AES?

23 A. We did.

24 Q. What types of records are maintained in the AES database?

25 A. So the Electronic Export Information, the information

1 that's required to be filed with the government when certain  
2 criteria are met, we refer to that as EEI, Electronic Export  
3 Information, that's the actual data that's maintained in the  
4 Automated Export System. That's things like ultimate  
5 consignee, the U.S. principal party of interest, the name of  
6 the commodity, the value of the commodity, whether or not  
7 there's an applicable ECCN --

8 Q. Is that Export Control Classification Number?

9 A. Sorry?

11:32 10 Q. Is that --

11 A. Yes, it is.

12 Q. Okay.

13 A. I said value -- so that's not every single category of  
14 information as part of the Electronic Export Information, but  
15 those are the ones that we fundamentally find ourselves looking  
16 at.

17 Q. And EEI, Electronic Export Information, is that required  
18 to be filed for any export of \$2,500 or over or for which an  
19 export license is required?

11:33 20 A. Yes, that's correct.

21 Q. And with regards to your job, looking at, investigating  
22 export violations, do you often review EEI records, AES  
23 records?

24 A. In every case we look at EEI.

25 Q. And how often do you review them, review those records

1 during the course of an investigation?

2 A. So in a case like Qin, because the system, the Automated  
3 Export System, is updated continuously, if we're conducting an  
4 investigation of Qin today but we haven't done anything, he  
5 still has the ability to export goods. AES can change on a  
6 daily basis, new exports are added. So we look at AES quite  
7 frequently and then look at the Electronic Export Information  
8 filed in connection with a particular export. And we do that  
9 sometimes on a daily basis, sometimes once a week, it depends  
10 on the case.

11:34

11 Q. So are there criminal penalties for failing to file EEI or  
12 filing false EEI within the United States government?

13 A. There are.

14 Q. I'm sorry, the EEI is filed with the United States  
15 government, correct?

16 A. Right, through the Automated Export System.

17 Q. Do you know what the purpose of those filings are?

11:34

18 A. Well, are we talking about it from an investigator  
19 perspective? The purpose is to identify the good, the value,  
20 whether or not -- what the specific commodity classification  
21 is, whether or not a license is required for that export, and,  
22 in effect, who's going to have their hands on it. So the  
23 exporter, that is a person who had their hands on it, could be  
24 the U.S. principal party of interest, the manufacturer. If  
25 it's going through a reseller, for example, a trading company,

1 something like that, that would be an intermediate consignee,  
2 someone through whom it passes. But one of the things that  
3 we're most interested in, the thing that's within the U.S.  
4 government's interest, is knowing where that thing, in this  
5 case an autonomous underwater vehicle, where that thing is  
6 going to be used and by whom. And we look at that as the  
7 ultimate consignee, a person who is going to put that commodity  
8 into use.

9 Q. Let me just clarify one issue. So prior to the border  
11:36 10 search in November of 2017, had you reviewed the EEI records  
11 pertaining to LinkOcean?

12 A. Yes.

13 Q. How many times had you reviewed it by that point?

14 A. I don't know. I really don't know. Quite a few.

15 Q. And based upon your review of those EEI records, you  
16 mentioned a few minutes ago that you had identified more than  
17 20 transactions that you believe were false, that EEI had been  
18 filed in false --

19 MR. KETTLEWELL: Option, your Honor, I don't think he  
11:36 20 said this.

21 THE COURT: Sustained as to that question.

22 MS. SIEGMANN: I'll rephrase.

23 BY MS. SIEGMANN:

24 Q. So based upon your review of those EEI records had you  
25 identified any records that you believed contained false

1 information?

2 A. Records that identified -- so Electronic Export  
3 Information that noted LinkOcean Technologies as the ultimate  
4 consignee end user of particular goods, it was clear to me that  
5 LinkOcean was not the end user, that at best LinkOcean would be  
6 an intermediate consignee. And so my view of that, the agents  
7 that I was working with at the time with as much if not more  
8 experience than me was that those were all false statements.

9 When Qin either did on his own or caused somebody else to  
10 report that LinkOcean was the ultimate consignee of these  
11 particular goods, my view is that that was not a truthful  
12 statement.

13 Q. Why is that? Why couldn't LinkOcean -- in your view, why  
14 shouldn't it have been reported as the ultimate consignee?

15 A. Because they weren't the ones who were going to put it  
16 into use. It was clear from the conversations that Qin had  
17 with folks at Riptide, with conversations that he had with us  
18 in the undercover platform, conversations that he had with  
19 other manufacturers of the same technology, that he was, as I  
11:38 20 said, at best an intermediary, that it was going to pass  
21 through him and go to someone else who was going to put it to  
22 use.

23 Q. And I'm sorry, how often was LinkOcean listed as the  
24 ultimate consignee in the EEI that had been filed with the  
25 government?

1 A. I don't have the AES in front of me, but my memory is that  
2 on every occasion they were identified as the ultimate  
3 consignee. My memory is on two occasions they were also  
4 identified as an intermediate consignee. I'm not entirely sure  
5 how that could be true, but maybe -- well, I believe that's all  
6 they ever were, was an intermediary, but I don't know how you  
7 could identify them as both in the same export.

8 Q. So the EEI requests the information about the exporter,  
9 the intermediate consignee, and the ultimate consignee?

11:39 10 A. That's correct.

11 Q. So based upon your then review of the EEI and the fact  
12 that LinkOcean was identified as the ultimate consignee in  
13 every transaction, did you believe the defendant had violated  
14 the Export Administration Regulations prior to November 2017?

15 A. I did.

16 Q. You mentioned that you discussed that conclusion with your  
17 co-case agents?

18 A. Yes. I mean, that's the nature of the work, particularly  
19 in this district, we take a pretty collaborative approach to  
11:39 20 these types of investigations, and we work all the time --  
21 there are very few cases -- actually, I can't think of any in  
22 which I work on a CPI case, a counterproliferation  
23 investigations case, by myself. We always work on them in  
24 concert with colleagues from other agencies.

25 Q. Did any of your co-case agents disagree with your



1 conclusion?

2 MR. KETTLEWELL: Objection, your Honor.

3 THE COURT: Sustained as to that, counsel. You can  
4 ask another question.

5 BY MS. SIEGMANN:

6 Q. Well, you said you work in a collaborative environment.  
7 So -- is that correct?

8 A. That's correct.

9 Q. And when you're talking about the case, you all together  
10 come up with a joint understanding or a collective  
11 understanding as to how you're going to proceed?

12 A. I would agree.

13 Q. Was there anyone in the -- in your -- amongst the co-case  
14 agents that raised any concern with continuing to investigate  
15 this case?

16 A. Nobody raised any concerns about that, no.

17 Q. Turning now -- directing your attention to October of  
18 2017, what, if anything, happened in October pertaining to this  
19 investigation?

11:41 20 A. In October, if my memory is right, there was an export  
21 of -- on behalf of LinkOcean Technologies. The U.S.  
22 manufacturer was identified as Marine Sonic, it's also known as  
23 Atlas North America, they're the parent company in Marine  
24 Sonic, a subsidiary of Atlas North America, and there was an  
25 export of something that we wanted to inspect.

1           So we have the ability to target certain shipments for  
2 inspection, and we targeted that shipment in October. And for  
3 a variety of reasons we weren't actually able to get it  
4 stopped. And it ultimately was exported, and then that  
5 prompted us to want to have a conversation with the folks at  
6 Marine Sonic Incorporated. Their offices were in Yorktown,  
7 Virginia, I think.

8 Q. Did you eventually talk to Marine Sonic?

9 A. Yes, we did.

11:42 10 Q. Directing your attention to November 7, 2017, where did  
11 you go?

12 A. Myself and one of my colleagues, Special Agent Hayden,  
13 traveled to the offices of Marine Sonic Incorporated in  
14 Yorktown, Virginia and met with some of the employees of that  
15 company to talk about specifically that most recent export that  
16 we weren't actually able to stop and get a look at, and also  
17 then to serve them with a grand jury subpoena for records.

18 Q. Why did you decide to talk to Marine Sonic in November of  
19 2017?

11:43 20 A. Well, it was clear that Qin and LinkOcean were customers  
21 of Marine Sonic. I thought that they would have relevant  
22 information about who Qin was, perhaps who he was purchasing on  
23 behalf of. They would have financial records and things of  
24 that nature. And I wanted to understand -- the export that we  
25 missed suggested that a license for export would have been

1 required, that was what was on the Electronic Export  
2 Information, that it may have required a license for export to  
3 China. How the commodity was described didn't make sense  
4 within the context of the investigation, like, we hadn't seen  
5 that before, so we wanted to understand more about that.

6 Q. What do you mean, like, how was it described?

7 A. I think that -- I think that's the one that was described  
8 as compasses. We hadn't seen that before. That didn't comport  
9 with what we understood the products he was interested in  
10 purchasing.

11:44

11 So we traveled to Marine Sonic to talk about that  
12 export, their relationship with Qin and LinkOcean, and, as I  
13 said, ultimately served them with a subpoena for records.

14 THE COURT: And just so I understand. So the  
15 paperwork, the EEI that's required, is actually broader than  
16 the subset of commodities that would require a license,  
17 meaning, there's some things for which you need to fill out  
18 paperwork for which a license is not required.

19 THE WITNESS: That's correct your Honor. Anything  
11:45 20 over \$2,500 requires the filing of an EEI, but you could buy a  
21 product that's only valued at \$1,000, but if it requires a  
22 license for export, then you would have to file EEI and  
23 indicate that the license is required.

24 So, in this case, talking specifically about the EEI  
25 for this particular product, the EEI suggested, based on the

1 classification number, that a license should have been required  
2 for export because it was exported to China. Subsequent  
3 investigation revealed that may not have been true, so -- but  
4 that was one of the things that we learned by talking to folks  
5 at Marine Sonic.

6 THE COURT: Thank you.

7 BY MS. SIEGMANN:

8 Q. Okay. So now moving -- so on November 7, 2017, did you  
9 actually go to Marine Sonic?

11:46 10 A. We sure did, went down to Yorktown, Virginia and met with  
11 some of the employees at Marine Sonic.

12 Q. Did they talk to you?

13 A. They did.

14 Q. And can you describe what happened during the interview?

15 A. So we met with -- over the course of our meeting, I think  
16 we met with three employees. We talked about what Marine Sonic  
17 produces. It turns out they're a cleared defense contractor as  
18 well, so they produce a line of products for the United States  
19 military, in particular -- yeah, my memory from that interview  
11:46 20 was that they produce a line of autonomous vehicles for the  
21 Navy, specifically for SEALs, for SEAL teams, and they have  
22 classified information on site, so they're a CDC.

23 They talked a little bit about who they are as a  
24 company, bought by Atlas North America, and eventually we  
25 focused the discussion to purchases made by Qin and LinkOcean.

1           He did not buy compasses. He bought -- it turns out  
2 that he was -- I think -- I don't have all the records in front  
3 of me, obviously, but my memory of it was that he was  
4 purchasing towed, t-o-w-e-d, towed vehicles, a side scan sonar  
5 system from Atlas North America. In fact, I think that is what  
6 actually was exported on the one that kind of led off this part  
7 of the conversation, it was actually a towed system that was  
8 exported the month prior, not a compass.

9 Q. So the description in the EEI was wrong?

11:47 10 A. That's correct.

11 Q. So it -- and I just want to focus in on what was  
12 significant to your investigation of Qin. Can you tell the  
13 Judge what you found significant to that investigation during  
14 this interview of Marine Sonic?

15 A. At this point we've -- the investigative team, we've  
16 talked to a number of U.S. manufacturers of products like this  
17 autonomous vehicle. And I think every single one of them had  
18 contracts with the U.S. Navy. The U.S. Navy was obviously  
19 buying a lot of this technology, and my experience in this  
11:48 20 investigative work, in this programmatic area, if the U.S. Navy  
21 is buying all these products from here, then there are other  
22 navies that are interested in buying products from the same  
23 company. If they're controlled, then they're more difficult to  
24 get, so you have to come up with a scheme in order to be able  
25 to do that. That's where I and the other people that do the

1 work that I'm doing, that's where we step in and try to unpack  
2 that scheme.

3 The other thing that we learned and that stood out to  
4 me in particular was that apparently Qin had been a  
5 long-standing customer of Marine Sonic, even though they had  
6 been bought out by Atlas North America. And one of the  
7 gentlemen that we spoke with I think described Marine Sonic  
8 prior to being bought out as a little bit more than a mom and  
9 pop operation, they were smaller. Then the purchase infusion  
10 of capital, bigger contracts, they had a bigger kind of space  
11 in that market.

12 And so because Qin had been a prior customer, he  
13 could effectively pick up the phone, make a call, send an  
14 e-mail, and because he had kind of this historical  
15 relationship, they didn't ask a lot of him. But one of the  
16 things that we learned in that meeting with Marine Sonic was  
17 that there were occasions when Marine Sonic knew who the  
18 ultimate consignee was, the person or the entity that was going  
19 to put that vehicle into use, and Qin asked Marine Sonic to  
11:50 20 just report LinkOcean as the ultimate consignee.

21 There was even an occasion, we learned about it in  
22 that meeting, there was a discrepancy between what the invoice  
23 said the cost of a vehicle was and the value that was reported  
24 within the Electronic Export Information. So there was a  
25 commercial invoice that went with that particular sale, the

1 value on that invoice was higher than what was reported through  
2 EEI.

3 Q. So I'm sorry, so he undervalued?

4 A. He undervalued. So we asked about the discrepancy, and we  
5 were told that Qin asked for the EEI, the value, to be reported  
6 incorrectly. And my understanding is that the explanation was  
7 that that would make it easier for him to get into China.

8 Q. Have you seen undervaluing on EEI before this  
9 investigation?

11:51 10 A. Sure.

11 Q. And what's your understanding as to why folks undervalue?

12 A. I mean, consistent with what Qin claimed, it was easier on  
13 the back end. But that doesn't make it any less of a violation  
14 in the United States. That information is required to be  
15 reported accurately. So either Qin did it or he asked somebody  
16 to do it, but that's the information that the U.S. government  
17 collects to understand the goods that are going out of our  
18 country.

19 Q. I'm going to hand you --

11:52 20 MS. SIEGMANN: Your Honor, may I approach?

21 THE COURT: Yes. But, counsel, just give me a moment.

22 (Discussion off the record.)

23 THE COURT: Counsel, we're just going to take a  
24 10-minute break, and then we'll come back.

25 Sir, you can step down. We'll take a 10-minute

1 recess.

2 THE CLERK: All rise.

3 (Recess taken.)

4 THE CLERK: All rise.

5 Court is in session. Please be seated.

6 THE COURT: We'll wait for a moment.

7 (Discussion off the record.)

8 (Pause.)

9 THE COURT: Counsel.

12:05 10 MS. SIEGMANN: Thank you, your Honor.

11 May I approach the witness?

12 THE COURT: You may.

13 MS. SIEGMANN: I'm handing the witness what has been  
14 marked Exhibit 8.

15 BY MS. SIEGMANN:

16 Q. Do you recognize that document I just handed you?

17 A. I do.

18 Q. What is it?

19 A. It looks like a copy of a report of investigation authored  
12:05 20 by Special Agent Hayden after our visit to Marine Sonic  
21 Technologies in Yorktown, Virginia.

22 Q. Have you reviewed that report?

23 A. I have.

24 Q. And does it summarize the interview that you just  
25 mentioned of Marine Sonic?



1 A. Yes.

2 MS. SIEGMANN: Your Honor, the government moves to  
3 admit Exhibit 8.

4 THE COURT: Any objection?

5 MR. KETTLEWELL: No objection, your Honor.

6 THE COURT: It may be admitted and published, if you  
7 wish.

8 (Exhibit 8 received into evidence.)

9 MS. SIEGMANN: Can we bring it up?

12:06 10 BY MS. SIEGMANN:

11 Q. So, Special Agent Andersen, so in the report that you --  
12 Exhibit 8, it appears to be a three-page report, correct?

13 A. That's right.

14 Q. And in the report does it discuss the EEI concerns that  
15 you mentioned prior to our break?

16 A. It does.

17 Q. And based upon your interview of Marine Sonic, had you  
18 identified any specific EAR violations?

19 A. Yes, I would say that we did.

12:07 20 Q. Turning to the second page of the report --

21 MS. SIEGMANN: If you can zoom in on that paragraph,  
22 Mr. Bruemmer.

23 Q. Was this one of the transactions or one of the EEI filings  
24 that you discussed with Mr. -- I'm sorry, with the folks at  
25 Marine Sonic?

1 A. It is.

2 Q. Can you describe what this was?

3 A. So as I talked about earlier, we spoke with Marine Sonic  
4 personnel, in particular, we talked about the export from  
5 October of 2017. And the export classification number for that  
6 export that we attempted to stop was identified as 6A001, and  
7 if that were the accurate ECCN, then it would have required a  
8 license to be exported to China. And then we talked about the  
9 fact that we asked whether or not it was really a compass, and  
10 it was not.

12:08

11 Q. Was there any other specific EEI violations that you  
12 discussed with Marine Sonic during the course of that  
13 interview?

14 A. We discussed the identification of LinkOcean as the  
15 ultimate consignee, and whether or not Marine Sonic knew who  
16 the actual ultimate consignee was; and then, as I discussed  
17 earlier, we talked about the value of a particular export as it  
18 related to what was on the invoice and then what was reported  
19 through the Automated Export System and the EEI, that the EEI  
20 was reported as a different number than what the true value  
21 was.

12:09

22 Q. And this is what you had seen for other companies as well  
23 as Marine Sonic, that the ultimate consignee was listed at  
24 LinkOcean?

25 A. Absolutely. I thought you were talking about the value,

1 but, yeah, that is what we had seen, that in every circumstance  
2 LinkOcean was identified as the ultimate consignee.

3 Q. At the end -- how did the interview end at Marine Sonic?

4 A. So it ended with us handing them a grand jury subpoena for  
5 records, and I think we left shortly thereafter.

6 MS. SIEGMANN: Your Honor, may I approach?

7 THE COURT: You may.

8 MS. SIEGMANN: I'm handing the witness what has been  
9 marked Exhibit 9.

12:10 10 BY MS. SIEGMANN:

11 Q. Special Agent Andersen, do you recognize Exhibit 9?

12 A. Yes.

13 Q. What is it?

14 A. It's a copy of the grand jury subpoena that we hand  
15 delivered to Marine Sonic on the day of the interview there.

16 MS. SIEGMANN: The government moves to admit Exhibit  
17 9, your Honor.

18 THE COURT: Any objection?

19 MR. KETTLEWELL: No objection, your Honor.

12:10 20 THE COURT: Okay.

21 Exhibit 9 is admitted and may be published.

22 (Exhibit 9 received into evidence.)

23 BY MS. SIEGMANN:

24 Q. Special Agent Andersen, is this Exhibit 9, you indicated  
25 this was a grand jury subpoena?

1 A. Yes, that's correct.

2 Q. And is there an attachment -- I'm sorry, what kind of  
3 subpoena is it? What were you looking to obtain?

4 A. Records.

5 Q. Who drafted the attachment, like, the records to be  
6 produced?

7 A. I did.

8 MS. SIEGMANN: I want to turn now to page 3,  
9 Mr. Bruemmer.

12:11 10 Q. So that's the attachment that you drafted?

11 A. Yes.

12 Q. And so what types of documents were you looking to obtain  
13 from Marine Sonic through this subpoena?

14 A. Category -- essentially, all documents that they had  
15 pertaining to their business interactions with LinkOcean and/or  
16 Shuren Qin.

17 MS. SIEGMANN: Now, turning to paragraph 5, can you  
18 zoom in on that, Mr. Bruemmer?

19 A. Yeah, I see that.

12:11 20 Q. And did you draft this language that's in paragraph 5?

21 A. I did.

22 Q. And it reads, Any technical and marketing information  
23 regarding the technical specifications, military capabilities,  
24 purposes and uses, or commodity classification or license  
25 restrictions (including any photographs, scientific analysis,

1 or draft license applications) of any products quoted to,  
2 purchased for, and shipped to LinkOcean Technologies and Shuren  
3 Qin.

4 Did I read that correctly?

5 A. That's right.

6 Q. Why, sir, why, Special Agent Andersen, did you want that  
7 type of information for your investigation?

8 A. In these types of investigations, we are always looking  
9 for technical data and specifications. Sometimes proliferators  
10 are not able to get the product. Sometimes they can't get --  
11 we'll just use this case, they can't get the autonomous  
12 vehicle, but through a variety of ways, they may actually be  
13 able to get the plans, the schematics, the technical drawings,  
14 the manufacturing information that would allow -- through the  
15 collection of that data that would allow someone to be able to  
16 build the thing that they could not get exported. And the  
17 reason why proliferators do that is because it's a lot easier  
18 to hide the data than it is necessarily to hide a box.

19 And so across the spectrum of our investigations in  
12:13 20 this programmatic area, we're always looking for tech data,  
21 because they may get the plans on how to make the widget but  
22 they couldn't get the widget itself. And if they can get the  
23 plans out, then that means that, in this case, the Chinese can  
24 build the thing without having to buy it.

25 So it's -- as it's iterated here in the attachment,

1 it's one of the many things that we're always on the lookout  
2 for.

3 Q. Is technical data controlled?

4 A. Technical data can be controlled, just like the product.

5 Q. On what list is it controlled?

6 A. Well, it's definitely controlled -- I mean, it's  
7 controlled on the U.S. Munitions List, the ability to build a  
8 nuclear warhead, the same thing as the warhead itself, but it's  
9 also controlled under the Commerce Control List.

12:14 10 Q. It depends on what the technology relates to.

11 A. Absolutely. So just like the device itself, it depends on  
12 what it is, who's going to use it, where it's going, and what  
13 it's intended use is, those are the things that would dictate  
14 its controllability. And so it has the same controls as, in  
15 this case, the vehicle itself.

16 MS. SIEGMANN: Now, turning to page -- the next page,  
17 Mr. Bruemmer, paragraph 10.

18 Q. And did that section of the grand jury subpoena request  
19 any materials relating to the export or attempted export of any  
12:14 20 defense articles (including technical data) and services to  
21 LinkOcean Technologies and Shuren Qin or any affiliated  
22 companies?

23 A. Yes, you read that correctly.

24 Q. And, sir -- so, Special Agent, as you just mentioned, you  
25 were looking to see if Marine Sonic had provided any technical

1 data related to defense articles to Mr. Qin?

2 A. That's correct.

3 Q. And this was on November 7, 2017, that this subpoena was  
4 served? On the same date as the interview?

5 A. It was the same date as the interview, yes.

6 Q. So that was November 7, 2017?

7 A. Yes.

8 Q. That was approximately two weeks before the border search  
9 was conducted?

12:15 10 A. That's correct.

11 Q. Turning, lastly, to paragraph 11 of this document.

12 Does that read, Any documents, photographs, records,  
13 logs, or tangible items concerning, referring to, or relating  
14 to, any defense articles or any commodities, technical data or  
15 information, or services or training provided to employees of  
16 LinkOcean Technologies?

17 A. It does say that.

18 Q. Do you recall whether Marine Sonic produced any records in  
19 response to this subpoena?

12:16 20 A. They did produce records in response to the subpoena.

21 Q. Do you remember when you received them?

22 A. I don't remember the exact day. Within a couple of days  
23 of November 24th, I think a couple of days before the border  
24 search.

25 Q. Did you review those records?

1 A. We did review them, yes.

2 Q. Did you review all of them before the border search?

3 A. Yeah, my memory is that, you know, we did a cursory review  
4 of all of the material that we got from them and a more  
5 substantive review over time.

6 Q. Now, directing your attention to November 24, 2017, was an  
7 interview and search of the defendant conducted that day at  
8 Logan Airport?

9 A. Yes.

12:17 10 Q. What is a secondary inspection?

11 A. So at Logan Airport we refer to primary inspection usually  
12 has to relate to issues concerning visa admissibility, we'd say  
13 like, you know, someone gets flagged and goes to passport  
14 primary. Secondary is typically a search for traditional  
15 customs related items. And so when we send someone to  
16 secondary, we are asking that Customs and Border Protection  
17 officers conduct a closer examination of either a person or  
18 goods or both.

19 Q. Is that what happened to Mr. Qin on November 24, 2017?

12:18 20 A. It is.

21 Q. How did you learn that Mr. Qin was flying into Logan that  
22 day?

23 A. So I had a record in one of our systems that alerted me to  
24 the fact that he was traveling back from China. I think we  
25 get -- I think that's a 72 hours -- typically we are alerted to



1 that fact within 72 hours unless, for example, somebody walks  
2 up to the airport and they buy the ticket that day and fly that  
3 day, then that's the notice that you're going to get. But if  
4 it's a reservation that's already been purchased in advance,  
5 then typically we get notification within 72 hours of the  
6 expected arrival.

7 Q. And with regards to Mr. Qin, had he originally been  
8 scheduled to travel earlier in that month or earlier?

9 A. Yes. I think he was supposed to travel -- my memory is he  
10 was supposed to travel back within like a day or two of our  
11 visit to Marine Sonic, like maybe the next day after we spoke  
12 with the folks at Marine Sonic, I think he was due back in the  
13 country the next day or the day after that.

14 Q. And what did you do upon learning that Mr. Qin was going  
15 to be traveling back into the United States?

16 A. Talked with my investigative partners, talked with the  
17 other agents who I work with. We talked about the possibility  
18 of an inspection of Qin and whatever goods he might have upon  
19 his return to Logan. And the group was in agreement that that  
12:19 20 was the appropriate next step. And then I reached out to  
21 Customs and Boarder Protection officers at Logan Airport and  
22 communicated our interest in doing that.

23 Q. Can you just describe to the Court, when you said reach  
24 out, what, if anything, did you tell CPB at that time?

25 A. I think -- so I originally reached out to the person who I

1 thought was the supervisor of what we call inbound inspections.  
2 It turns out that he was no longer in that position, and I  
3 think that person referred me to Customs and Border Protection  
4 Officer Chris Hughes.

5 So I think initially I just said there's a subject  
6 coming into the United States from China, we'd like to do a  
7 border search, do an inspection or border search, something  
8 along those lines, and do you have some time for us to get  
9 together and talk about that.

12:20 10 Q. And what did you tell him about the investigation, if  
11 anything?

12 A. I think I told him -- are you talking about in the e-mail  
13 or are you talking about like --

14 Q. Just inform --

15 A. Down the road when we spoke, it was more substantial.  
16 Here's the nature of the investigation, we believe he's working  
17 on behalf of the Chinese Navy, he's been attempting to procure  
18 these underwater vehicles. He asked about Munitions List  
19 items, sonobuoys. He's coming back to the United States. He's  
12:21 20 been in China for sometime, we'd like to set him up for an  
21 inspection.

22 Q. So what happened next related to that? Did CPB actually  
23 interview him?

24 A. Yeah. So he came in. So that was within a couple of days  
25 of Mr. Qin's entry, and then, ultimately, he was inspected by

1 Customs and Boarder Protection at Logan Airport.

2 Q. So did you conduct the interview at the border?

3 A. I did not.

4 Q. Who did?

5 A. The person -- so there were two officers there; I  
6 interacted with one officer, as I said, Chris Hughes. So Chris  
7 and another officer, who I don't recall speaking with, so my  
8 interactions were with Officer Hughes, and I think Chris was  
9 leading that effort to do the interview and the inspection.

12:22 10 Q. Did you tell CPB Officer Hughes what questions, specific  
11 questions to ask Mr. Qin?

12 A. I tend not to do that. I don't like other people telling  
13 me how to do my job. You know, the customs hall at Logan  
14 Airport, that's very much a CPB environment. So I don't think  
15 it's appropriate that I tell Chris how to do his job.

16 So we provided Officer Hughes I think with relevant  
17 information about the nature of the business that Qin was  
18 involved with and said we'd like you to do an inspection, and  
19 we'll be available to assist if you need us. But, as a general  
12:23 20 rule, I don't tell CPB officers what to ask or how to ask it or  
21 things of that nature. I think they have the experience,  
22 they're there on a daily basis, so they know how to do their  
23 jobs.

24 Q. Did you participate in the interview at all?

25 A. I did not. I was not present in the customs hall while

1 that took place.

2 Q. Where were you when the interview took place?

3 A. I was in an office outside of the customs hall.

4 Q. Was anyone else with you?

5 A. Special Agent Steve Valentine was with me.

6 Q. And were any searches conducted of Mr. Qin or his property  
7 in connection with the secondary inspection?

8 A. Yes.

9 Q. What was searched?

12:23 10 A. His bags. I don't -- his bags, his phone, his computer,  
11 and then -- like, those are the things I think were searched.  
12 And then he himself was asked a series of questions.

13 Q. Okay. And what was your understanding as to what Mr. Qin  
14 told the CPB officers on November 24, 2017?

15 A. I understood that Qin told CPB that he was the president  
16 and owner of LinkOcean Technologies, that that company was  
17 based in China, that he purchased parts in the United States,  
18 U.S. origin goods for export to China, that he described the  
19 nature of the parts that he purchased to be the category of  
12:24 20 things that attach to a buoy, and that's what he exported. And  
21 I think he was asked a follow-up question to that one, and he  
22 reiterated that that was all that he exported from the United  
23 States to China, things that attach to a buoy.

24 At some point in the interaction with Officer Hughes,  
25 he opened his laptop and produced a diagram, a technical

1 diagram, I think as a way of highlighting these are the things  
2 that I export.

3 Q. I'm sorry, let's break that down a little.

4 A. Sorry.

5 Q. So you indicated that he, Mr. Qin, told CPB that he only  
6 exported items that attached to a buoy.

7 A. That is what he said.

8 Q. And based upon your review of AES records and records  
9 obtained from Marine Sonic, did you believe that Qin's answer  
10 or statement to CPB on November 24th was true?

11 A. No, I believe that was a lie.

12 Q. Why is that?

13 A. Because he did not only export products that attached to a  
14 buoy. He exported a variety of other products that did not  
15 have to attach to a buoy, other vehicles, things that floated  
16 on the surface, things that went below the ocean surface; that  
17 just wasn't true. He exported a number of other goods that did  
18 not fall into that category.

19 Q. And the parts that Mr. Qin didn't disclose, they did have  
20 any particular applications of concern?

21 A. I would say that the application of concern there was that  
22 they were consistent with what our overall concern was, the  
23 combination of vehicles and sensing equipment that could be  
24 used in a military capacity by the Chinese Navy, and that we  
25 certainly viewed that as a national security threat. And his

1 answer about the question is that all that you export, words to  
2 that effect, was not consistent with the wide categories of  
3 items that he had, in fact, exported from the United States.

4 Q. So you mentioned that there was a diagram that was  
5 produced or shown to the CPB officer during the interview?

6 A. Yes.

7 Q. At any point during the secondary inspection were you  
8 shown anything?

9 A. Yes. So it was at that point, I think in conjunction with  
10 the question about I only export things that attach to a buoy,  
11 and then the production, you know, opening of the laptop and  
12 the demonstration of the what looked like a technical diagram,  
13 that was the point at which Officer Hughes came back to the  
14 office that we were sitting in, myself and Special Agent  
15 Valentine, and showed us that diagram and told us the answer to  
16 this particular question.

17 Officer Hughes told us things like -- he confirmed  
18 that he's the president of LinkOcean, that he's coming back  
19 from China, that he uses the laptop and phone to conduct his  
12:28 20 business, things of that nature. But he said the only things  
21 that he exports are things that attach to a buoy. And I said  
22 that's not true, that's a lie. And showed us a diagram -- I  
23 did not immediately recognize what it was, and so Officer  
24 Hughes went back out, he took the -- my memory is he took the  
25 laptop at that time and went back out and continued to speak

1 with Mr. Qin.

2 Q. So based upon your best memory today, what do you remember  
3 seeing on Mr. Qin's laptop when the CPB officer showed it to  
4 you?

5 A. Well, that was consistent with the claim that I -- like,  
6 water testing equipment, that could, in fact, attach to a buoy.  
7 That's my memory of what we were looking at. I don't remember  
8 the manufacturer. As I sit here now, I don't remember who the  
9 manufacturer was or -- but that as a demonstration was

12:29 10 inconsistent with everything that we had reviewed through the  
11 Automated Export System and the review of Electronic Export  
12 Information, and, frankly, our conversations with Marine Sonic.  
13 They were selling him vehicles, a towed vehicle that does not  
14 attach to a buoy, so --

15 Q. How many pages of the diagram did you review?

16 A. I think I only saw the page that was up on the screen. We  
17 didn't -- I mean, you have -- we didn't alter what was there.  
18 Our job, when we make a decision about whether or not we want  
19 to conduct a border search of that electronic item, is that  
12:30 20 we're going to do it in a forensically sound way. So all I saw  
21 is what was on the screen. We didn't manipulate, up the page,  
22 down the page. We didn't do anything like that.

23 Q. So based on your glance at it, did it appear to be  
24 technical in nature?

25 A. It did.

1 Q. What happened after the defendant was interviewed at  
2 Logan?

3 A. After he was interviewed -- he was ultimately released.  
4 He answered the questions of CPB. We made -- I say "we,"  
5 myself and Special Agent Valentine understood that the volume  
6 of data that was on the laptop and on the computer could not be  
7 imaged in a short amount of time, and so instead of having  
8 Mr. Qin and his family wait at Logan Airport, we detained the  
9 items. We gave him a receipt for his property, and we let him  
10 know that someone would be in touch with him about getting his  
11 property back. And then he was allowed to leave the customs  
12 hall.

13 Q. With regards to the items, are you referring to his laptop  
14 and iPhone --

15 A. Yes.

16 Q. -- that were detained?

17 A. Yes.

18 Q. What happened to those electronic devices after Mr. Qin  
19 was allowed to leave the airport?

12:31 20 A. We brought them back to the HSI Boston Field Office. We  
21 have a forensic lab, so they were brought back to the forensic  
22 lab to begin the imaging process so that we could review the  
23 content of those boxes, really the computer is a box, the phone  
24 is a box, and there's stuff inside the box. So in order to be  
25 able to do that, we want to forensically image them, and then



1 we review the image so that we don't disturb the original item.  
2 And we left the airport and went directly to the office and  
3 started that process.

4 Q. So on the evening of November 24th?

5 A. Yes.

6 Q. How far is the field office from the airport?

7 A. Three miles maybe, two miles, three miles.

8 Q. And what did you and Special Agent Valentine do when you  
9 arrived at the HSI office?

10 A. Fired up the lab and Steve -- Special Agent Valentine --  
11 I'm not a computer forensic agent, Special Agent Valentine is.  
12 So we documented the commodities, the laptop and the phone, and  
13 then Special Agent Valentine started to process them so that we  
14 could get forensic images that we could subsequently review.

15 Q. And did -- were you able to subsequently review them?

16 A. Yes.

17 Q. Were there any problems reviewing the data on the  
18 defendant's electronic devices?

19 A. Yes, there were some challenges along the way. One of the  
12:33 20 challenges was that the volume of the data, it took a while for  
21 the image itself to process. Then, once we had a processed  
22 image that we could look at, we found that there were a number  
23 of encrypted files, and we found that a substantial volume of  
24 the data on the computer was actually in Mandarin Chinese, not  
25 in English.

1 Q. Were any steps taken to decrypt the files or obtain the  
2 defendant's passwords?

3 A. So -- both. The -- and Special Agent Valentine can speak  
4 to this a lot more cogently than I can. But there was a  
5 process in which, without breaking the files, an attempt to  
6 basically unlock the encrypted files, that process was  
7 undertaken.

8 As far as the kind of language issues, that was more  
9 problematic and required a lot more time and effort in order to  
10 be able to get resources aligned so that we could conduct a  
11 border search.

12 MS. SIEGMANN: May I approach, your Honor?

13 THE COURT: You may.

14 MS. SIEGMANN: I'm handing the witness what has been  
15 marked as Exhibit 10.

16 BY MS. SIEGMANN:

17 Q. Do you recognize that document, Special Agent Andersen?

18 A. Yes, I do.

19 Q. And what is that?

12:34 20 A. Collection of e-mails back and forth between one of the  
21 attorneys representing HSI through the Office of the Principal  
22 Legal Advisor and the person who we understood to be Qin's  
23 attorney for the purposes of this border search, Bill Joyce.

24 Q. Did these e-mails describe efforts by the government to  
25 obtain Qin's passwords for the encrypted files?

1 A. They do. This is not the sum of all the communication  
2 between the Office of the Principal Legal Advisor and  
3 Mr. Joyce, but it is the content that was captured in e-mail.  
4 My understanding is there were a number of phone calls back and  
5 forth before these e-mails started to be produced.

6 MS. SIEGMANN: The government moves to admit Exhibit  
7 10.

8 THE COURT: Any objection?

9 MR. KETTLEWELL: Can we just have one moment, your  
10 Honor?

11 THE COURT: Sure.

12 (Discussion off the record.)

13 MR. KETTLEWELL: Your Honor, I'd object. It's post  
14 the detention or seizure of the computer, so it doesn't go to  
15 probable cause, and it's hearsay.

16 THE COURT: Counsel, what do you say to that? I see  
17 the dates appear to be in January.

18 MS. SIEGMANN: It goes to the scope and why it took so  
19 long. The e-mails show efforts of the government to try to  
20 get --

21 THE COURT: The reasonableness of the detention of the  
22 device.

23 Counsel, what do you say to that?

24 MR. KETTLEWELL: I didn't object to the relevance,  
25 your Honor, I objected to the fact that it's hearsay. We have

1 two people that are communicating with one another, neither one  
2 is here, and it's all post the seizures of both the laptop and  
3 the iPhone.

4 THE COURT: Counsel.

5 MS. SIEGMANN: Number one, I don't think it's hearsay  
6 as to the defendant's attorney because that would be an  
7 admission of a party opponent being admitted by the government.  
8 The agent, he was acting as the agent for the defendant, so it  
9 would be admissible under 801 and would not constitute hearsay  
10 for that purpose. And the fact is that, again, goes to --  
11 well, I can elicit from the witness his understanding as to  
12 whether the passwords were coming.

13 THE COURT: Overruled on hearsay grounds. I'm focused  
14 on the purpose for which it's being offered. I'll allow it.

15 Exhibit 10 may be admitted.

16 (Exhibit 10 received into evidence.)

17 BY MS. SIEGMANN:

18 Q. So, Special Agent Andersen, what is your understanding as  
19 to whether Mr. Qin and counsel was going to provide passwords  
12:37 20 for the devices?

21 A. Right. So we understood -- there was a point in time  
22 where communication was made and there was a promise of  
23 passwords for various files, and I don't think -- I'm not sure  
24 if it's captured in here or not, but there was a point at which  
25 we received something that was claimed to be a password. It

1 was not a password to anything that would decrypt some of the  
2 files that were locked. And so this engagement, this  
3 engagement was always between the Office of the Principal Legal  
4 Advisor and Qin's counsel, at least for this particular issue,  
5 Mr. Joyce. I didn't speak with Qin about these passwords,  
6 Special Agent Valentine didn't speak with Qin. We communicated  
7 with our attorney, and then our attorney consulted with  
8 Mr. Joyce, trying to get passwords that would allow us to  
9 unlock encrypted space and then complete the border search.

12:38 10 MS. SIEGMANN: Can you bring up page 1 of Exhibit 10.

11 Can you zoom in on the -- the second e-mail there.

12 Q. Now, Special Agent Andersen, do you see that e-mail that's  
13 been zoomed in further?

14 A. Yes.

15 Q. And does that -- is that e-mail dated January 10, 2018?

16 A. It is.

17 Q. And is that the password information that was provided by  
18 Qin's counsel?

19 A. It is.

12:39 20 Q. Is that what you're referring to a moment ago as -- that  
21 that didn't work to decrypt any of the files?

22 A. Right, that's -- on my review, that's not actually  
23 password information, but it's what was provided as such.

24 MS. SIEGMANN: And now turn to page 3 of that  
25 document, Mr. Bruemmer.

1 A. Yes.

2 MS. SIEGMANN: Can you zoom in on the top e-mail,  
3 please, Mr. Bruemmer.

4 Q. And just reading, was this in response to the e-mail that  
5 we just read a few seconds ago regarding the password  
6 information that was provided by Mr. Joyce?

7 A. Yes.

8 Q. And does the e-mail read, The below information does not  
9 appear to provide the access needed to complete the border  
10 search inspection of electronic devices?

11 A. It does say that.

12 Q. Is this e-mail, again, asking for the passwords, the PGP  
13 pass phrase, the key chain pass phrase, and the password or  
14 pass phrase needed to access the Windows encrypted file system?

15 A. Right, it does say that. We were very specific of what we  
16 were looking for.

17 Q. Was that information ever provided?

18 A. Not to my knowledge, no.

19 MS. SIEGMANN: Turning to page 6 of that same exhibit.  
12:41 20 Can you zoom in on the top paragraph, Mr. Bruemmer.

21 Q. Now, do you see this e-mail dated January 24, 2018?

22 A. Yes.

23 Q. And as of that date, were you still -- was the government  
24 still seeking that information from the defense?

25 A. So I think the border search had ended on the 23rd, so

1 this is actually -- like, we never got it. We never got that  
2 information. So the border search ended on January 23rd. This  
3 is after that event.

4 Q. And based upon your understanding, had the defense agreed  
5 to provide that information?

6 A. They had agreed to provide it, and they had provided  
7 something. And then I think, as the e-mails show, we said that  
8 that wasn't sufficient to get into the encrypted spaces within  
9 the laptop. So, I mean, ultimately, we had to proceed without  
10 it, and eventually we just stopped and we ended the border  
11 search.

12 Q. And so during the border search, were you ever able to  
13 review any of the encrypted files?

14 A. No.

15 And I would just say not to my knowledge. I don't  
16 recall that we were able to do that.

17 Q. What were you looking for on the defendant's electronic  
18 devices during the border search?

19 A. Obviously we talked about it a lot. We were looking for  
12:42 20 technical data, we were looking for -- as I said earlier,  
21 technical data is just as valuable as a particular commodity.  
22 If you have the know-how to build it, you don't need the thing.  
23 You may have the specifications needed in order to be able to  
24 do it on your own. So that's one of the things that we were  
25 looking for.

1           We were also looking for items that would suggest an  
2 ongoing export -- export violations. We were looking for  
3 things that would solidify -- either solidify or contradict our  
4 understanding that he might be operating as an agent of a  
5 foreign power. Were there e-mails with instructions from  
6 Chinese naval officials or research institutes or things of  
7 that nature, lists of items to be purchased, things like that  
8 that we thought would exist in that box.

9           Q. Now, you mentioned earlier there was some Mandarin  
10 documents. How much of the computer or documents were in  
11 Mandarin?

12           A. I mean, I don't know the actual percentage. For the  
13 things that I would say were of relevance to the questions that  
14 I just outlined, I would say most of that appeared to be in  
15 Mandarin.

16           Q. So what did do you? I mean, do you read Mandarin?

17           A. Unfortunately, I don't.

18                        So we efforted within HSI, HSI is an investigative  
19 agency that has offices throughout the country and overseas, so  
12:44 20 we didn't have a Mandarin speaker and reader. That was kind of  
21 the issue is that we needed somebody who could not only speak  
22 it, we did have access to a person who could speak it, we  
23 didn't have access to someone locally who could speak it, read  
24 it, and write it, and I think that was the critical  
25 requirement. So I talked to my supervisor at the time, group



1 supervisor, Mike McGonigle, about our need to as quickly as  
2 possible get someone into our office who could read, speak,  
3 write in Mandarin and assist us with the border search. And he  
4 went through field offices, he went through our headquarters,  
5 he went through undercover operations. And then, because of  
6 the time of the year that we were in, we had trouble getting --  
7 identifying a person who could actually come and do the work  
8 and then physically get them to Boston to do that work. And  
9 eventually we were able to land Special Agent Katie McKenna  
10 from our HSI New York office, who is fluent in Mandarin, can  
11 read and speak and write in Mandarin, and we got her to our  
12 office to assist us with the border search.

13 Q. How long did she stay?

14 A. She came twice, she stayed a week each time. And I think  
15 the second time she came I think it was shortly after that,  
16 that's when we ended the border search.

17 Q. Can you give us, the Judge, some examples of the search  
18 queries or terms that you were using to search the devices?

19 A. Search queries were kind of a moving target, your Honor.

12:46 20 We started off with kind of a base set of queries, and then,  
21 depending upon responsiveness, whether or not we find any hits  
22 to those searches in the forensic tools that we were using, we  
23 were searching for things like ITAR, CCL, EEI, sonobuoy, AUV,  
24 UUV, spelled out, obviously not spelled out, using the  
25 acronyms, Navy, Army, those were some of the general terms.

1 Eventually we narrow that focus, depending upon results.

2 MS. SIEGMANN: May I approach, your Honor?

3 THE COURT: Yes. I just had a follow-up question.

4 MS. SIEGMANN: I'm sorry.

5 THE COURT: Sir, when you made reference to technical  
6 data, what -- can you give me a specific example of what that  
7 would be? Meaning, is that -- when you say "technical data,"  
8 do you mean specifications for a commodity that would require a  
9 license?

12:48 10 THE WITNESS: So that certainly could be, that  
11 certainly could be the thing. But specifications I think is  
12 perhaps a little too broad because a manufacturer can have  
13 specifications on their website, but that doesn't constitute  
14 technical data. That's the kind of information that they put  
15 out to a potential consumer about, hey, look at our thing, this  
16 is why it would be great for you to contact us and then we  
17 could design a product that suits your needs.

18 So specifications on a website, in my view, are not  
19 technical data. But specifications combined with blueprints,  
12:48 20 production information, schematics --

21 THE COURT: Proprietary information about a component?

22 THE WITNESS: And how to make it, how to build it.

23 THE COURT: And is the possession of that a violation  
24 of criminal law?

25 THE WITNESS: If he brought it outside of the United

1 States, it would require the same license for export as the  
2 product itself.

3 THE COURT: Thank you.

4 Counsel.

5 BY MS. SIEGMANN:

6 Q. And he had just returned from --

7 A. He had just returned from China.

8 Q. So if you had found technical data on his computer that  
9 required an export license to go to China, would that  
10 constitute a violation -- would that constitute contraband?

11 A. It certainly would, it certainly would. We'd have to  
12 investigate that further, when did he get it, how did he get  
13 it, things of that nature that we would be able to do in the  
14 forensic environment, but the possession of that having come  
15 back from China, if it, in fact, was technical data and did  
16 require a license for export and he had it on his laptop or in  
17 first phone, or, frankly, if it was design plans that were in  
18 his suitcase, that could be the same thing. If he came into  
19 the United States with that and it was evaluated and required a  
12:50 20 license for export, so his possession upon arrival at Logan  
21 would constitute a violation, that it had been an unlawful  
22 export.

23 MS. SIEGMANN: I'm sorry, your Honor, do you have any  
24 other questions?

25 THE COURT: No, thank you.

1 MS. SIEGMANN: May I approach?

2 THE COURT: You may.

3 MS. SIEGMANN: I'm handing the witness what has been  
4 marked Exhibit 11.

5 BY MS. SIEGMANN:

6 Q. Special Agent Andersen, do you recognize that?

7 A. Yes.

8 Q. What is it?

9 A. Two-page e-mail communication with Special Agent McKenna  
10 drafted at some point after we learned that she was going to be  
11 the one coming to assist us with the border search, and her  
12 request of me was to kind of give her a head start, to give her  
13 a set of terms that we were going to use in the course of the  
14 border search so that she could do the research necessary to  
15 make sure that they were translated correctly into Mandarin  
16 Chinese.

17 MS. SIEGMANN: The government moves to admit Exhibit  
18 11.

19 THE COURT: Counsel?

12:51 20 MR. KETTLEWELL: No objection, your Honor.

21 THE COURT: It may be admitted and published, if you  
22 wish.

23 (Exhibit 11 received into evidence.)

24 MS. SIEGMANN: Mr. Bruemmer, can you bring up Exhibit  
25 11.

1 Can you zoom in on just the bottom.

2 BY MS. SIEGMANN:

3 Q. So is this dated December 13, 2017?

4 A. Yes.

5 Q. Is that an e-mail from you to Special Agent McKenna?

6 A. Yes.

7 Q. And it reads, Here is a list that I promised you --

8 MS. SIEGMANN: Going on to the next page,

9 Mr. Bruemmer. And can you zoom in on -- yes, perfect.

12:51 10 Q. And is that the list that you sent to Special Agent

11 McKenna?

12 A. Yes.

13 Q. So it reads, Marine sonic technology, Chain Bridge  
14 Brokers, Hydroid, Riptide, unmanned underwater vehicle, UUV,  
15 autonomous underwater vehicle, AUV, buoy, sonobuoy, towed sonar  
16 array, mine, countermeasure, Lowell (instruments) military,  
17 Navy, Army, licensing (export license).

18 Did I accurately summarize that list or read that  
19 list?

12:52 20 A. Yes, that is the list.

21 Q. And, Special Agent Andersen, was that the only terms that  
22 you searched on Mr. Qin's devices?

23 A. No.

24 Q. But it was an example of some of the terms that you used?

25 A. As I said, I think the e-mail speaks to it. This was a

1 list that I gave to Special Agent McKenna so that she could get  
2 started on the translation process on her end so that when she  
3 arrived she could start immediately. And so these were the  
4 initial terms that we used and transmitted to her. And then  
5 she expanded on this search throughout the border search.

6 Q. Did you obtain the assistance of any special agents, any  
7 co-case agents to conduct the border search?

8 A. Yes.

9 Q. Can you explain that to the Court, please? Who did you --

12:53 10 A. Yeah, so Special Agent Hayden, who was a co-case agent of  
11 mine with the Department of Commerce, and we talked about one  
12 of the reports that he authored about our trip to Marine Sonic,  
13 that when we're conducting our border search we can seek the  
14 technical expertise of others to assist us with that search.  
15 And I thought that it was appropriate to use Special Agent  
16 Hayden because of his expertise on commerce regulations,  
17 commodity classifications, and things of that nature. And so I  
18 asked him. And I think the policy says that we can direct it,  
19 but really I asked if he could offer his assistance in that  
12:54 20 regard, and he agreed to do so.

21 Q. When was the border search terminated or stopped?

22 A. January 23, 2018, I believe.

23 Q. Why was the border search stopped at that time?

24 A. So at that point we were -- I mean, that was basically 60  
25 days from the date that the border search had been initiated.

1 As a group I think that we were -- as an investigative group we  
2 were certainly concerned about what amount of time is  
3 reasonable, and at that point Special Agent McKenna was gone,  
4 had already come twice, and it didn't seem likely that we were  
5 going to get her back in a timely manner. And so at that point  
6 it didn't seem appropriate to continue the border search.

7 I had asked for an extension of the border search  
8 which had been approved by my supervisor. I did not feel  
9 comfortable asking for another extension. And so we ended the  
10 border search on January 23rd.

12:55

11 Q. When you say "extension," you were asking -- was that  
12 under the HSI or ICE policy on border searches?

13 A. Yeah, that's right. So when I want to extend a border  
14 search, I have to seek permission from a supervisor in order to  
15 do that. I had done that earlier, but I didn't think that we  
16 could meet the standards necessary to continue it from that  
17 point going forward. So we ended it on the 23rd.

18 Q. Well, had all the relevant data been reviewed on Mr. Qin's  
19 devices by then?

12:56

20 A. Not by a long shot, no.

21 Q. During the border search were any records found regarding  
22 illegal exports?

23 A. Yes. We certainly believed so.

24 Q. Could you just briefly summarize that for the Court?

25 A. Sure. During the border search we found information that

1 suggested that Qin, through LinkOcean, was directed to purchase  
2 hydrophones from a company in Mississippi, and that through his  
3 communication -- and he was directed to do so by a research  
4 institute that's on the Entity List, that means that they are  
5 not eligible to receive license -- sorry -- yeah, licensable  
6 commodities, they're not able to receive licensable  
7 commodities. And so that entity is Northwestern Polytechnical  
8 University in China. The commodities were manufactured by  
9 HITEC Incorporated, and Qin had been directed or directed some  
10 of his employees to create false paperwork indicating  
11 essentially a false end user, make it look like they're going  
12 to one place when, in fact, they are going to go to the  
13 Northwestern Polytechnical University, the banned entity.

14 Q. And when you referred to Entity List, is that the  
15 Department of Commerce's Entity List?

16 A. Yes, that is the Department of Commerce.

17 Q. And with regards to the Entity List, any items that are  
18 subject to the Export Administration Regulations require an  
19 export license to ship to that entity?

12:58 20 A. Also correct.

21 Q. That would include items that weren't controlled based  
22 upon the concerns of that end user?

23 A. That's correct. So there was a point at which the  
24 regulations on that particular issue were changed, and so the  
25 concern about Northwestern Polytechnical University became so



1 substantial that every item, even those that were EAR 99,  
2 normally wouldn't require a license, needed to be reviewed by  
3 the Department of Commerce.

4 THE COURT: Counsel, given the time, I think we're  
5 going to have to stop here. I want to talk to counsel about  
6 scheduling.

7 Sir, you can step down for the moment, thank you.

8 THE WITNESS: Thank you, your Honor.

9 THE COURT: Give me a moment.

10 12:58 (Discussion off the record.)

11 THE COURT: Counsel, since I'm going to see you  
12 tomorrow, we can pick this up tomorrow. If counsel can put  
13 their heads together, if we need another date after tomorrow,  
14 and then I can hear you about that tomorrow, and if you want to  
15 confer with Ms. Hourihan about availability of the Court.

16 MS. SIEGMANN: Thank you, your Honor.

17 THE COURT: If we need a date beyond tomorrow, but I  
18 know we're on the first witness.

19 MR. KETTLEWELL: At this pace, I think we will, your  
20 12:59 Honor.

21 THE COURT: Yes.

22 MS. SIEGMANN: Your Honor, just -- this is the witness  
23 with the most --

24 THE COURT: Counsel, it was not a criticism. I  
25 understand all of the evidence that's been put before me. I

1 suspect Mr. Kettlewell has a fair amount of cross-examination  
 2 for the same reasons. So with all of that said, I think we  
 3 should plan on another date, and I will see you tomorrow.

4 MR. KETTLEWELL: Thank you, your Honor.

5 MS. SIEGMANN: We completely agree with your Honor.

6 THE COURT: Thank you.

7 THE CLERK: All rise.

8 (Court adjourned at 12:59 p.m.)

9 - - - - -

10 CERTIFICATION

11 I certify that the foregoing is a correct transcript  
 12 of the record of proceedings in the above-entitled matter to  
 13 the best of my skill and ability.

14  
 15  
 16  
 17 /s/Debra M. Joyce  
 18 Debra M. Joyce, RMR, CRR, FCRR  
 Official Court Reporter

December 29, 2019  
 Date

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WITNESS

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THOMAS BRIAN ANDERSEN, JR.

Direct Examination  
By Ms. Siegmann

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Exhibit No.

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