

UNITED STATES DISTRICT COURT

for the
Central District of California

Under Seal

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)
225 West Valley Boulevard, Suite H118
San Gabriel, California 91776

Case No. 8:17-MJ-00088

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A-1

located in the Central District of California, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- checked evidence of a crime;
checked contraband, fruits of crime, or other items illegally possessed;
checked property designed for use, intended for use, or used in committing a crime;
unchecked a person to be arrested or a person who is unlawfully restrained.



The search is related to a violation of:

Code Section
Title 18 U.S.C. §§ 371, 1341, 1343, 1546, and 1956; and
Title 8 U.S.C. § 1324(a)(1)(A)(iv).

Offense Description
See attached Affidavit

The application is based on these facts:

See attached Affidavit

- checked Continued on the attached sheet.
unchecked Delayed notice of days (give exact ending date if more than 30 days: ) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

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Applicant's signature

Gary Chen, Special Agent (FBI)

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/4/17

KAREN E. SCOTT

Judge's signature

City and state: Santa Ana, California

Karen E. Scott, U.S. Magistrate Judge

Printed name and title

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A F F I D A V I T

I, Gary Chen, being duly sworn, declare and state:

I. AGENT BACKGROUND

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), Orange County Resident Agency, Los Angeles Field Office, California. I have been employed with the FBI since April 2006, before which I was employed as an SA with the Naval Criminal Investigative Service ("NCIS") for approximately two years. I am currently assigned to the Violent Crime and Criminal Enterprise squad, where my duties include investigations into organized crime related to various fraudulent schemes, trafficking and distribution of controlled substances, illegal sports betting, and violent crimes. I attended law enforcement training academies for FBI and NCIS, which together with other FBI and NCIS training, provided me with training on various aspects of organized criminal enterprise investigations, drug investigations, and white collar crime investigations including investment fraud, mail fraud, bank fraud, access device fraud, mail theft, identity theft, and money laundering. I have participated in financial fraud, money laundering, and international money laundering investigations that resulted in seizures, searches, and arrests. Last, I also have experience conducting surveillance, analyzing financial records, interviewing witnesses, drafting affidavits for wire interceptions, obtaining and executing search and arrest warrants, and employing other investigative techniques.

## II. SUMMARY OF INVESTIGATION

2. Starting in or about 2008 and continuing to the present, Victoria Chan [陳瑩瑩] ("VICTORIA"), a California attorney, and her father Tat Chan [陳達] ("TAT"), a foreign national, have defrauded the United States by exploiting the U.S. immigration "EB-5" visa program, which provides lawful U.S. permanent residence (a "green card") to foreigners, in exchange for requiring investment of at least \$500,000 in a U.S. business that must also create 10 new American jobs. In their fraudulent EB-5 scheme, using California Investment Immigration Fund, LLC ("CIIF"), VICTORIA and TAT convinced more than 100 foreign Chinese nationals to invest a total of more than \$50,000,000 with CIIF and related companies. However, rather than legitimately investing the funds into American businesses, CIIF either refunded the funds to the EB-5 investors while their EB-5 petitions were pending, in direct violation of the EB-5 program, or stole millions of dollars to use for personal expenditures, including buying million-dollar homes. As a result of the fraudulent scheme, many foreign nationals were able to improperly obtain U.S. green cards through the EB-5 visa program, even though those foreigners did not in fact truly invest in U.S. businesses, nor were new American jobs created. Last, several of VICTORIA's clients were fugitives on the People's Republic of China 100 most wanted list, charged with crimes such as bribery, but nevertheless were able to obtain U.S. green cards under the EB-5 visa program, and even though their EB-5 petitions also contained false information.

### III. PURPOSE OF AFFIDAVIT

3. This affidavit is made in support of applications for warrants to search for evidence of violations of Title 18, United States Code, Sections 371, 1341, 1343, 1546, and 1956, and Title 8, United States Code, Section 1324(a)(1)(A)(iv), which criminalize, respectively, conspiracy to defraud the United States, mail fraud, wire fraud, visa fraud, money laundering, and encouraging or inducing an alien to come to, enter, or reside in the United States, knowing or in reckless disregard that such coming to, entry, or residence is or will be in violation of law.

4. The locations and vehicle to be searched are:

a. SUBJECT PREMISES #1: 225 West Valley Boulevard, Suite H118, San Gabriel, California 91776, which is the business office of CIIF, described as one office unit located on the main floor inside the San Gabriel Hilton Hotel building, as more fully described in Attachment A-1;

b. SUBJECT PREMISES #2: 728 Carriage House Drive, Arcadia, California 91006, which is a detached single-family, two-story residence used in the scheme, as more fully described in Attachment A-2;

c. SUBJECT PREMISES #3: 3 Larry Beard Drive, South El Monte, California 91733, which is a three-story attached condo/townhouse where VICTORIA resides, as more fully described in Attachment A-3; and

d. SUBJECT VEHICLE #1: a 2015 Porsche SUV with California license plate 7JCX228, registered to VICTORIA, as

more fully described in Attachment A-4.

5. The facts set forth in this affidavit are based upon my personal observations and investigation, my training and experience, and information obtained from various law enforcement personnel and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested search warrants and does not purport to set forth all of my knowledge of or investigation into this matter. Unless specifically indicated otherwise, all conversations and statements described in this affidavit are related in substance and in part only.

#### IV. STATEMENT OF PROBABLE CAUSE

##### A. Summary of Investigation

6. Overview: VICTORIA and her co-schemers raised more than \$50,000,000 by orchestrating a scheme that exploited the U.S. immigration EB-5 visa program. Rather than legitimately investing funds into American businesses or creating American jobs as required by the EB-5 program, VICTORIA instead either refunded the funds to the EB-5 investors while their EB-5 petitions were pending or spent the funds on personal expenses.

7. Visa fraud: VICTORIA and her co-schemers refunded some EB-5 investors' funds soon after receiving the \$500,000 or \$1,000,000 investments and submitting the EB-5 petitions to the U.S. government, but did not withdraw those foreigners' pending EB-5 petitions, even though those foreigners were no longer eligible for the EB-5 visa program because of the refunds. VICTORIA also submitted fraudulent information to the U.S.



government, sometimes even using the same purported 10 "new" American jobs for different foreigners' petitions, even though the EB-5 program requires that each petitioner's investment independently created 10 full-time American jobs lasting two years. Further, even though more than 100 EB-5 petitions were submitted, each for at least \$500,000, no real construction actually took place at any of the proposed project locations, and very few, if any, actual full-time American jobs were created. Last, CIIF fronted \$500,000 to some "investors," who then wire-transferred those same funds back to CIIF as purported EB-5 investments, in an attempt to trick U.S. immigration into believing that the foreigners had actually made investments, when they had not. VICTORIA's fraud allowed those foreigners to improperly obtain U.S. green cards.

8. **Fraud against investors:** VICTORIA and TAT also induced foreigners to invest with CIIF by presenting them with an opportunity to obtain a U.S. green card under the EB-5 visa program but promising a full refund of the invested funds, which directly violated the EB-5 program. Instead of doing so, however, VICTORIA and TAT misappropriated some investors' funds to use for VICTORIA and TAT's personal expenditures, including buying multi-million dollar homes for themselves or for TAT's female companion, Fang Zeng [曾芳] ("FANG"), a Chinese national.

9. **U.S. green cards issued to Chinese fugitives:** Some of the foreigners for whom VICTORIA submitted EB-5 petitions were fugitives from China's 100 most wanted list published by the Chinese Communist Central Judicial Prosecution Committee,

available at [www.ccdi.gov.cn](http://www.ccdi.gov.cn), charged with crimes such as official bribery and abuse of power. Nonetheless, as part of the fraudulent scheme, VICTORIA submitted EB-5 petitions for those fugitives, and at least three such fugitives were ultimately issued U.S. green cards under the EB-5 visa program.

**B. Overview of federal immigrant investor "EB-5" visa program**

10. From discussions with Homeland Security Investigation ("HSI") SA D. Tchan, as well as reviewing applicable federal statutes and regulations, the U.S. Citizenship and Immigration Services ("USCIS") website, [www.uscis.gov/eb-5](http://www.uscis.gov/eb-5), the USCIS Policy Manual, and other publically-available sources on the subject, I learned the following regarding the federal immigration EB-5 visa program:

a. The federal Immigration and Nationality Act (INA) makes visas available to qualified foreign nationals who will contribute to the economic growth of the United States by investing in U.S. businesses and creating jobs for U.S. workers. Congress created this employment-based fifth preference immigrant visa category (EB-5) to benefit the U.S. economy by providing an incentive for foreign capital investment that creates or preserves U.S. jobs.

b. In 1990, Congress created the Immigrant Investor Program, commonly known as "EB-5," in order to stimulate the U.S. economy through job creation and capital investment from immigrant investors by creating a new commercial enterprise or investing in a troubled business. Title 8, United States Code, Section 1153, "Allocation of immigration visas," provides the

preference allocation for employment-based immigrants. Section 1153(b)(5), "Employment Creation," defines the EB-5 visa program. Part G ("Investors") of Volume 6 ("Immigrants") of the USCIS Policy Manual describes the specific rules applicable to the EB-5 visa program.

c. The INA authorizes approximately 10,000 EB-5 immigrant visas annually. The INA established a threshold investment amount of \$1,000,000 U.S. dollars per investor.

d. To encourage investment in new enterprises located in areas that would most benefit from employment creation, the INA also sets aside at least 3,000 of the approximately 10,000 EB-5 visas annually for qualified immigrants who invest in new commercial enterprises (NCEs) that will create employment in targeted employment areas (TEAs), which include rural areas and areas with high unemployment.

e. \$1,000,000 or \$500,000 investment requirement:  
There are two distinct EB-5 pathways for an immigrant investor to gain lawful permanent residence for themselves and their immediate family: the Basic Program and the Regional Center Program. Both of those programs require that the immigrant make a capital investment of either \$1,000,000, or \$500,000 (if the investment is in a TEA) in an NCE located within the United States.

1. *General:* The minimum qualified investment in the United States is \$1,000,000.

2. *TEA (high unemployment or rural area):* The minimum qualified investment either within a high-unemployment

area or rural area in the United States is \$500,000.

a. A TEA is an area that, at the time of investment, is a rural area or an area that has experienced high unemployment of at least 150 percent of the national average.

b. A "rural area" is any area outside a metropolitan statistical area (as designated by the Office of Management and Budget) or outside the boundary of any city or town having a population of 20,000 or more, according to the decennial census.

3. The immigrant investor is required to invest his or her own capital, and that capital must be lawfully obtained. The immigrant investor/petitioner must document the path of the funds to establish that the investment was made, or is actively in the process of being made, with the immigrant investor's own funds.

4. To invest means to contribute capital. A loan from the immigrant investor to the new commercial enterprise does not qualify as a contribution of capital.

5. A contribution of capital in exchange for a note, bond, convertible debt, obligation, or any other debt arrangement between the immigrant investor will cause the NCE not to qualify as a capital investment.

6. To qualify as an investment, the immigrant investor must actually place his or her capital "at risk." "At risk" means that there must be a risk of loss and a chance for gain. Additionally, if the investor is guaranteed the right to eventual ownership or use of a particular asset in consideration

of the investor's contribution of capital into the NCE, the expected present value of the guaranteed ownership or use of such asset will count against the total amount of the investor's capital contribution in determining how much money was placed "at risk." For example, if the immigrant investor is given a right of ownership or use of real estate, the present value of that real estate will not be counted as investment capital put "at risk."

7. An immigrant investor must provide evidence of the actual undertaking of business activity. Merely establishing and capitalizing an NCE and signing a commercial lease are insufficient to show that an immigrant investor has placed his or her capital "at risk." Without some evidence of business activity, no assurance exists that the funds will be used to carry out the business of the commercial enterprise.

8. The full amount of the investment must be made "available" to the business(es) most closely responsible for creating the employment upon which the petition is based. In the regional center context, in order for the immigrant investor to establish that capital was placed at risk for the purpose of generating a return, he or she must present evidence that the capital was invested into the NCE and that the full amount was subsequently made available to the job creating entity (JCE).

f. 10-job requirement: The NCE must create or preserve 10 full-time jobs for qualifying U.S. workers within two years (or under certain circumstances, within a reasonable

time after the two-year period) of the immigrant investor's admission to the United States as a Conditional Permanent Resident (CPR). (Qualifying for "preserving" jobs requires that the NCE be a troubled business.)

1. "Full-time employment" is defined as employment of a qualifying employee by the NCE in a position that requires a minimum of 35 working hours per week.

a. A "qualifying employee" must be a U.S. citizen, a lawfully-admitted permanent resident, or other immigrant lawfully authorized for employment in the United States including but not limited to a conditional resident, a temporary resident, an asylee, a refugee, or a foreign national remaining in the United States under suspension of deportation.

b. "Qualifying employee" does not include the immigrant investor, the immigrant investor's spouse, sons, daughters, or any nonimmigrant.

2. In the case of the Immigrant Investor Program, "full-time employment" also includes employment of a qualifying employee in a position that has been created "indirectly" from investments associated with the Program.

3. "Troubled business" is defined as business that has:

- a. Been in existence for at least 2 years;
- b. Has incurred a net loss for accounting purposes (determined on the basis of generally accepted accounting principles) during the 12-month or 24-month period prior to the priority date on the Immigrant Petition by Alien

Entrepreneur (Form I-526); and

c. Had a loss for the same period at least equal to 20 percent of the troubled business's net worth prior to the loss.

g. A "Regional Center" is defined as any economic unit, public or private, which is involved with the promotion of economic growth, improved regional productivity, job creation, and increased domestic capital investment. The organizers of a regional center seeking the regional center designation from USCIS must submit a proposal showing:

1. How the regional center plans to focus on a geographical region within the United States, and must explain how the regional center will achieve economic growth within this regional area;

2. That the regional center's business plan can be relied upon as a viable business model stating market conditions, project costs, and activity timelines;

3. How in verifiable detail (using economic models in most instances) jobs will be created directly or indirectly through capital investments made in accordance with the regional center's business plan; and

4. The amount and source of capital committed to the project and the promotional efforts made and planned for the business project.

h. When making an investment in an NCE affiliated with a USCIS-approved regional center under the Regional Center Program, an immigrant investor may satisfy the job creation

